

REFERENCE TITLE: sales and use tax holiday

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1464**

Introduced by  
Senators Hale, Mitchell: Garcia, Soltero; Representative Rios P

### **AN ACT**

AMENDING SECTIONS 42-1253, 42-1254, 42-5001, 42-5029, 42-5061, 42-5151, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-5015, 42-5032.02 AND 42-5032.03; RELATING TO TRANSACTION PRIVILEGE AND USE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1253, Arizona Revised Statutes, is amended to  
3 read:

4 42-1253. Appeal to state board of tax appeals: definition

5 A. Except as provided in section 42-1254, subsection C, a person  
6 aggrieved by a final decision or order of the department under section  
7 42-1251, article 3 of this chapter or section 42-2065, 42-2068, 42-2069,  
8 42-2074, 42-2201, ~~or~~ 42-2202, 42-5032.02 OR 42-5032.03 may appeal to the  
9 state board of tax appeals by filing a notice of appeal in writing within  
10 thirty days after the decision or order from which the appeal is taken has  
11 become final.

12 B. The board shall take testimony and examine documentary evidence as  
13 necessary to determine the appeal, all pursuant to administrative rules to  
14 govern such appeals.

15 C. On determining the appeal the board shall issue a decision  
16 consistent with its determination. The board's decision is final on the  
17 expiration of thirty days from the date when notice of its action is received  
18 by the taxpayer, unless either the department or the taxpayer brings an  
19 action in tax court as provided in section 42-1254.

20 D. If the amount in any single dispute before the board is less than  
21 twenty-five thousand dollars, a taxpayer may be represented in that dispute  
22 before the board by:

23 1. A certified public accountant.

24 2. A person who is enrolled to practice before the United States  
25 internal revenue service and is recognized as an enrolled agent.

26 3. Any other person who is authorized by the taxpayer under a properly  
27 executed power of attorney and who was previously or is currently retained by  
28 the taxpayer for purposes other than representation in a hearing before the  
29 board.

30 E. If a practitioner who represents a CITY, TOWN OR taxpayer before  
31 the board pursuant to subsection D of this section fails to comply with an  
32 order or rule of the board, the board may impose sanctions including one or  
33 both of the following:

34 1. Order that the stipulation of the facts proposed by the department  
35 of revenue be accepted.

36 2. Suspend the practitioner from further practice before the board  
37 either for a specific period of time or until the board removes the  
38 suspension.

39 F. For the purposes of this section, "practitioner" means a person,  
40 other than a party, who files documents with or appears before the board in  
41 connection with a matter before the board.

42 Sec. 2. Section 42-1254, Arizona Revised Statutes, is amended to read:

43 42-1254. Appeal to tax court

44 A. The department or a CITY, TOWN OR taxpayer aggrieved by a decision  
45 of the state board of tax appeals may bring an action in tax court.

1           B. If the department is aggrieved by a decision of the board and the  
2 amount in dispute is less than five thousand dollars, the department may not  
3 bring an action in tax court unless the department determines that the  
4 decision of the board involves an issue of substantial significance to the  
5 state. A taxpayer aggrieved by a determination of the department that an  
6 issue is of substantial significance to the state may file a motion with the  
7 tax court to dismiss the action brought by the department on the grounds that  
8 the determination constitutes an abuse of discretion.

9           C. Except in the case of individual income tax cases in which the  
10 amount in dispute is less than five thousand dollars, a person who is  
11 aggrieved by a final decision or order of the department under section  
12 42-1251, 42-5032.02 OR 42-5032.03 or article 3 of this chapter ~~may~~, in lieu  
13 of appealing to the state board of tax appeals under section 42-1253, MAY  
14 bring an action in tax court by filing a notice of appeal in writing within  
15 thirty days after the decision or order from which the appeal is taken has  
16 become final.

17           D. Any appeal that is taken to tax court pursuant to this section is  
18 subject to the following provisions:

19           1. No injunction, writ of mandamus or other legal or equitable process  
20 may issue in an action in any court in this state against an officer of this  
21 state to prevent or enjoin the collection of any tax, penalty or interest.

22           2. The action shall not begin more than thirty days after the order or  
23 decision of the board or department becomes final. Failure to bring the  
24 action within thirty days after the order or decision of the board or  
25 department becomes final constitutes a waiver of the protest and a waiver of  
26 all claims against this state arising from or based on the illegality in the  
27 tax, penalties and interest at issue, except that within the time limits set  
28 forth in section 42-1106, a taxpayer who fails to bring an action within  
29 thirty days may pay the tax under protest stating the grounds of objection to  
30 the legality of the tax and then file a claim for refund of the taxes  
31 paid. The refund claim shall then be governed by section 42-1119 and this  
32 section.

33           3. The tax court shall hear and determine the appeal as a trial de  
34 novo.

35           4. Either party to such action may appeal to the court of appeals or  
36 supreme court as provided by law.

37           5. If a final judgment is rendered in favor of the taxpayer in the  
38 action, the amount or such portion of the judgment as may be necessary shall  
39 first be credited to any taxes, penalties and interest due from the plaintiff  
40 taxpayer, and the amount of the balance remaining due the taxpayer shall be  
41 certified by the department of revenue to the department of administration,  
42 with a certified copy of the final judgment and a claim for refund  
43 authenticated by the department of revenue. On receipt, the department of  
44 administration shall draw a warrant payable to the taxpayer in an amount  
45 equal to the amount of the tax found by the judgment to be illegal, less the

1 amount of any taxes, penalties and interest due from the taxpayer. The  
2 department of administration shall draw a separate warrant payable to the  
3 taxpayer in an amount equal to the interest and other costs recovered against  
4 the department of revenue by the judgment, which shall be paid from the  
5 appropriate tax account.

6 Sec. 3. Section 42-5001, Arizona Revised Statutes, is amended to read:  
7 42-5001. Definitions

8 In this article and article 2 of this chapter, unless the context  
9 otherwise requires:

10 1. "Business" includes all activities or acts, personal or corporate,  
11 engaged in or caused to be engaged in with the object of gain, benefit or  
12 advantage, either directly or indirectly, but not casual activities or sales.

13 2. "Distribution base" means the portion of the revenues derived from  
14 the tax levied by this article and articles 5, 8 and 9 of this chapter  
15 designated for distribution to counties, municipalities and other purposes  
16 according to section 42-5029, subsection D.

17 3. "Engaging", when used with reference to engaging or continuing in  
18 business, includes the exercise of corporate or franchise powers.

19 4. "Gross income" means the gross receipts of a taxpayer derived from  
20 trade, business, commerce or sales and the value proceeding or accruing from  
21 the sale of tangible personal property or service, or both, and without any  
22 deduction on account of losses.

23 5. "Gross proceeds of sales" means the value proceeding or accruing  
24 from the sale of tangible personal property without any deduction on account  
25 of the cost of property sold, expense of any kind or losses, but cash  
26 discounts allowed and taken on sales are not included as gross income.

27 6. "Gross income" and "gross proceeds of sales" do not include goods,  
28 wares or merchandise, or value thereof, returned by customers if the sale  
29 price is refunded either in cash or by credit, nor the value of merchandise  
30 traded in on the purchase of new merchandise when the trade-in allowance is  
31 deducted from the sales price of the new merchandise before completion of the  
32 sale.

33 7. "Gross receipts" means the total amount of the sale, lease or  
34 rental price, as the case may be, of the retail sales of retailers, including  
35 any services that are a part of the sales, valued in money, whether received  
36 in money or otherwise, including all receipts, cash, credits and property of  
37 every kind or nature, and any amount for which credit is allowed by the  
38 seller to the purchaser without any deduction from the amount on account of  
39 the cost of the property sold, materials used, labor or service performed,  
40 interest paid, losses or any other expense. Gross receipts do not include  
41 cash discounts allowed and taken nor the sale price of property returned by  
42 customers if the full sale price is refunded either in cash or by credit.

43 8. "Person" or "company" includes an individual, firm, partnership,  
44 joint venture, association, corporation, estate or trust, this state, any  
45 county, city, town, district, other than a school district, or other

political subdivision and any other group or combination acting as a unit, and the plural as well as the singular number.

9. "Qualifying community health center":

(a) Means an entity that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(i) The sole provider of primary care in the community.

(ii) A nonhospital affiliated clinic that is located in a federally designated medically underserved area in this state.

(b) Includes clinics that are being constructed as qualifying community health centers.

10. "Qualifying health care organization" means an entity that is recognized as nonprofit under section 501(c) of the United States internal revenue code and that uses, saves or invests at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the department. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty per cent requirement.

11. "Qualifying hospital" means any of the following:

(a) A licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(c) A hospital, nursing care institution or residential care institution which is operated by the federal government, this state or a political subdivision of this state.

(d) A facility that is under construction and that on completion will be a facility under subdivision (a), (b) or (c) of this paragraph.

12. "Retailer" includes every person engaged in the business classified under the retail classification pursuant to section 42-5061 and, when in the opinion of the department it is necessary for the efficient administration of this article, includes dealers, distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, whether in

1 making sales on their own behalf or on behalf of the dealers, distributors,  
2 supervisors or employers.

3 13. "Sale" means any transfer of title or possession, or both,  
4 exchange, barter, lease or rental, conditional or otherwise, in any manner or  
5 by any means whatever, including consignment transactions and auctions, of  
6 tangible personal property or other activities taxable under this chapter,  
7 for a consideration, and includes:

8 (a) Any transaction by which the possession of property is transferred  
9 but the seller retains the title as security for the payment of the price.

10 (b) Fabricating tangible personal property for consumers who furnish  
11 either directly or indirectly the materials used in the fabrication work.

12 (c) Furnishing, preparing or serving for a consideration any tangible  
13 personal property consumed on the premises of the person furnishing,  
14 preparing or serving the tangible personal property.

15 14. "Solar daylighting" means a device that is specifically designed to  
16 capture and redirect the visible portion of the solar beam, while controlling  
17 the infrared portion, for use in illuminating interior building spaces in  
18 lieu of artificial lighting.

19 15. "Solar energy device" means a system or series of mechanisms  
20 designed primarily to provide heating, to provide cooling, to produce  
21 electrical power, to produce mechanical power, to provide solar daylighting  
22 or to provide any combination of the foregoing by means of collecting and  
23 transferring solar generated energy into such uses either by active or  
24 passive means, including wind generator systems that produce electricity.  
25 Solar energy systems may also have the capability of storing solar energy for  
26 future use. Passive systems shall clearly be designed as a solar energy  
27 device, such as a trombe wall, and not merely as a part of a normal  
28 structure, such as a window.

29 16. "Tangible personal property" means personal property which may be  
30 seen, weighed, measured, felt or touched or is in any other manner  
31 perceptible to the senses.

32 17. "Tax year" or "taxable year" means either the calendar year or the  
33 taxpayer's fiscal year, if permission is obtained from the department to use  
34 a fiscal year as the tax period instead of the calendar year.

35 18. "Taxpayer" means any person who is liable for any tax which is  
36 imposed by this article.

37 19. "TRANSACTION PRIVILEGE AND USE TAX HOLIDAY" MEANS THE PERIOD  
38 BEGINNING AT 12:01 A.M. ON THE FIRST FRIDAY IN AUGUST AND ENDING AT MIDNIGHT  
39 ON THE FOLLOWING SUNDAY EACH YEAR.

40 ~~19.~~ 20. "Wholesaler" or "jobber" means any person who sells tangible  
41 personal property for resale and not for consumption by the purchaser.

1           Sec. 4. Section 42-5029, Arizona Revised Statutes, is amended to read:  
2           42-5029. Remission and distribution of monies; definition

3           A. The department shall deposit, pursuant to sections 35-146 and  
4           35-147, all revenues collected under this article and articles 4, 5, 8 and 9  
5           of this chapter pursuant to section 42-1116, separately accounting for:

- 6           1. Payments of estimated tax under section 42-5014, subsection D.
- 7           2. Revenues collected pursuant to section 42-5070.
- 8           3. Revenues collected under this article and article 5 of this chapter
- 9           from and after June 30, 2000 from sources located on Indian reservations in
- 10          this state.
- 11          4. Revenues collected pursuant to section 42-5010, subsection G and
- 12          section 42-5155, subsection D.

13          B. The department shall credit payments of estimated tax to an  
14          estimated tax clearing account and each month shall transfer all monies in  
15          the estimated tax clearing account to a fund designated as the transaction  
16          privilege and severance tax clearing account. The department shall credit  
17          all other payments to the transaction privilege and severance tax clearing  
18          account, separately accounting for the monies designated as distribution base  
19          under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month  
20          the department shall report to the state treasurer the amount of monies  
21          collected pursuant to this article and articles 4, 5, 8 and 9 of this  
22          chapter.

23          C. On notification by the department, the state treasurer shall  
24          distribute the monies deposited in the transaction privilege and severance  
25          tax clearing account in the manner prescribed by this section and by sections  
26          42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against  
27          the account pursuant to sections 42-1118 and 42-1254.

28          D. Of the monies designated as distribution base the department shall:  
29          1. Pay twenty-five per cent to the various incorporated municipalities  
30          in this state in proportion to their population to be used by the  
31          municipalities for any municipal purpose.

32          2. Pay 38.08 per cent to the counties in this state by averaging the  
33          following proportions:

34               (a) The proportion that the population of each county bears to the  
35               total state population.

36               (b) The proportion that the distribution base monies collected during  
37               the calendar month in each county under this article, section 42-5164,  
38               subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409  
39               bear to the total distribution base monies collected under this article,  
40               section 42-5164, subsection B, section 42-5205, subsection B and sections  
41               42-5353 and 42-5409 throughout the state for the calendar month.

42          3. Pay an additional 2.43 per cent to the counties in this state as  
43          follows:

44               (a) Average the following proportions:

1 (i) The proportion that the assessed valuation used to determine  
2 secondary property taxes of each county, after deducting that part of the  
3 assessed valuation that is exempt from taxation at the beginning of the month  
4 for which the amount is to be paid, bears to the total assessed valuations  
5 used to determine secondary property taxes of all the counties after  
6 deducting that portion of the assessed valuations that is exempt from  
7 taxation at the beginning of the month for which the amount is to be paid.  
8 Property of a city or town that is not within or contiguous to the municipal  
9 corporate boundaries and from which water is or may be withdrawn or diverted  
10 and transported for use on other property is considered to be taxable  
11 property in the county for purposes of determining assessed valuation in the  
12 county under this item.

13 (ii) The proportion that the distribution base monies collected during  
14 the calendar month in each county under this article, section 42-5164,  
15 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409  
16 bear to the total distribution base monies collected under this article,  
17 section 42-5164, subsection B, section 42-5205, subsection B and sections  
18 42-5353 and 42-5409 throughout the state for the calendar month.

19 (b) If the proportion computed under subdivision (a) of this paragraph  
20 for any county is greater than the proportion computed under paragraph 2 of  
21 this subsection, the department shall compute the difference between the  
22 amount distributed to that county under paragraph 2 of this subsection and  
23 the amount that would have been distributed under paragraph 2 of this  
24 subsection using the proportion computed under subdivision (a) of this  
25 paragraph and shall pay that difference to the county from the amount  
26 available for distribution under this paragraph. Any monies remaining after  
27 all payments under this subdivision shall be distributed among the counties  
28 according to the proportions computed under paragraph 2 of this subsection.

29 4. After any distributions required by sections 42-5030, 42-5030.01,  
30 42-5031, 42-5032, ~~and~~ 42-5032.01, 42-5032.02 AND 42-5032.03, and after making  
31 any transfer to the water quality assurance revolving fund as required by  
32 section 49-282, subsection B, credit the remainder of the monies designated  
33 as distribution base to the state general fund. From this amount:

34 (a) The legislature shall annually appropriate to:

35 (i) The department of revenue sufficient monies to administer and  
36 enforce this article and articles 5, 8 and 9 of this chapter.

37 (ii) The department of economic security monies to be used for the  
38 purposes stated in title 46, chapter 1.

39 (iii) The Arizona arts endowment fund established by section 41-986,  
40 the full amount by which revenues derived from the amusement classification  
41 pursuant to section 42-5073 for the current fiscal year exceed the revenues  
42 that were derived from that classification in fiscal year 1993-1994, except  
43 that this amount shall not exceed two million dollars through fiscal year  
44 2008-2009.



(iv) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

(b) The state treasurer shall transfer to the tourism fund an amount equal to the sum of the following:

(i) Three and one-half per cent of the gross revenues derived from the transient lodging classification pursuant to section 42-5070 during the preceding fiscal year.

(ii) Three per cent of the gross revenues derived from the amusement classification pursuant to section 42-5073 during the preceding fiscal year.

(iii) Two per cent of the gross revenues derived from the restaurant classification pursuant to section 42-5074 during the preceding fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian

1 reservation would receive pursuant to section 15-1472, subsection D,  
2 paragraph 2 if it were a community college district shall be distributed each  
3 month to the treasurer or other designated depository of a qualifying Indian  
4 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
5 purpose of providing support to one or more community colleges owned,  
6 operated or chartered by a qualifying Indian tribe and shall be used in a  
7 manner consistent with section 15-1472, subsection B. For purposes of this  
8 paragraph, "qualifying Indian tribe" has the same meaning as defined in  
9 section 42-5031.01, subsection D.

10 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
11 subsection, one-twelfth of the following amounts shall be transferred each  
12 month to the department of education for the increased cost of basic state  
13 aid under section 15-971 due to added school days and associated teacher  
14 salary increases enacted in 2000:

15 (a) In fiscal year 2001-2002, \$15,305,900.

16 (b) In fiscal year 2002-2003, \$31,530,100.

17 (c) In fiscal year 2003-2004, \$48,727,700.

18 (d) In fiscal year 2004-2005, \$66,957,200.

19 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
20 \$86,280,500.

21 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
22 subsection, seven million eight hundred thousand dollars is appropriated each  
23 fiscal year, to be paid in monthly installments, to the department of  
24 education to be used for school safety as provided in section 15-154 and two  
25 hundred thousand dollars is appropriated each fiscal year, to be paid in  
26 monthly installments to the department of education to be used for the  
27 character education matching grant program as provided in section 15-154.01.

28 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
29 subsection, no more than seven million dollars may be appropriated by the  
30 legislature each fiscal year to the department of education to be used for  
31 accountability purposes as described in section 15-241 and title 15, chapter  
32 9, article 8.

33 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
34 subsection, one million five hundred thousand dollars is appropriated each  
35 fiscal year, to be paid in monthly installments, to the failing schools  
36 tutoring fund established by section 15-241.

37 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
38 subsection, twenty-five million dollars shall be transferred each fiscal year  
39 to the state general fund to reimburse the general fund for the cost of the  
40 income tax credit allowed by section 43-1072.01.

41 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
42 this subsection, the remaining monies collected during the preceding month  
43 shall be transferred to the classroom site fund established by section  
44 15-977. The monies shall be allocated as follows in the manner prescribed by  
45 section 15-977:

1 (a) Forty per cent shall be allocated for teacher compensation based  
2 on performance.

3 (b) Twenty per cent shall be allocated for increases in teacher base  
4 compensation and employee related expenses.

5 (c) Forty per cent shall be allocated for maintenance and operation  
6 purposes.

7 F. The department shall credit the remainder of the monies in the  
8 transaction privilege and severance tax clearing account to the state general  
9 fund, subject to any distribution required by section 42-5030.01.

10 G. Notwithstanding subsection D of this section, if a court of  
11 competent jurisdiction finally determines that tax monies distributed under  
12 this section were illegally collected under this article or articles 5, 8 and  
13 9 of this chapter and orders the monies to be refunded to the taxpayer, the  
14 department shall compute the amount of such monies that was distributed to  
15 each city, town and county under this section. The department shall notify  
16 the state treasurer of that amount plus the proportionate share of additional  
17 allocated costs required to be paid to the taxpayer. Each city's, town's and  
18 county's proportionate share of the costs shall be based on the amount of the  
19 original tax payment each municipality and county received. Each month the  
20 state treasurer shall reduce the amount otherwise distributable to the city,  
21 town and county under this section by one thirty-sixth of the total amount to  
22 be recovered from the city, town or county until the total amount has been  
23 recovered, but the monthly reduction for any city, town or county shall not  
24 exceed ten per cent of the full monthly distribution to that entity. The  
25 reduction shall begin for the first calendar month after the final  
26 disposition of the case and shall continue until the total amount, including  
27 interest and costs, has been recovered.

28 H. On receiving a certificate of default from the greater Arizona  
29 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the  
30 extent not otherwise expressly prohibited by law, the state treasurer shall  
31 withhold from the next succeeding distribution of monies pursuant to this  
32 section due to the defaulting political subdivision the amount specified in  
33 the certificate of default and immediately deposit the amount withheld in the  
34 greater Arizona development authority revolving fund. The state treasurer  
35 shall continue to withhold and deposit the monies until the greater Arizona  
36 development authority certifies to the state treasurer that the default has  
37 been cured. In no event may the state treasurer withhold any amount that the  
38 defaulting political subdivision certifies to the state treasurer and the  
39 authority as being necessary to make any required deposits then due for the  
40 payment of principal and interest on bonds of the political subdivision that  
41 were issued before the date of the loan repayment agreement or bonds and that  
42 have been secured by a pledge of distributions made pursuant to this section.

43 I. Except as provided by sections 42-5033 and 42-5033.01, the  
44 population of a county, city or town as determined by the most recent United  
45 States decennial census plus any revisions to the decennial census certified

1 by the United States bureau of the census shall be used as the basis for  
2 apportioning monies pursuant to subsection D of this section.

3 J. For the purposes of this section, "community college district"  
4 means a community college district **THAT IS** established pursuant to sections  
5 15-1402 and 15-1403 **AND** that is a political subdivision of this state.

6 Sec. 5. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
7 amended by adding sections 42-5015, 42-5032.02 and 42-5032.03, to read:

8 **42-5015. Retailers required to participate in transaction**  
9 **privilege and use tax holiday; records requirements**

10 A. NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, DURING  
11 A TRANSACTION PRIVILEGE AND USE TAX HOLIDAY, A RETAILER IN THIS STATE OR A  
12 RETAILER OUTSIDE THIS STATE MAKING SALES INTO THIS STATE SHALL NOT ADD TO THE  
13 SALES PRICE OR COLLECT FROM ANY PURCHASER AN AMOUNT TO COVER OR DESIGNATED AS  
14 EXCISE TAX OR USE TAX ON SALES AT RETAIL OF THE TYPES OF TANGIBLE PERSONAL  
15 PROPERTY AS DESCRIBED IN SECTION 42-5061, SUBSECTION A, PARAGRAPH 54 AND  
16 SECTION 42-5159, SUBSECTION A, PARAGRAPH 49. ANY AMOUNTS ERRONEOUSLY OR  
17 IMPROPERLY COLLECTED AS TRANSACTION PRIVILEGE TAX OR USE TAX DURING A  
18 TRANSACTION PRIVILEGE AND USE TAX HOLIDAY MUST BE REMITTED TO THE DEPARTMENT.

19 B. THE REPORTING REQUIREMENTS FOR RETAILERS OF TANGIBLE PERSONAL  
20 PROPERTY BY LAW OR BY ADMINISTRATIVE RULE, INCLUDING THE REQUIREMENTS FOR  
21 FILING RETURNS PURSUANT TO SECTIONS 42-5014 AND 42-5162, REMAIN IN EFFECT  
22 WITH RESPECT TO SALES DURING TRANSACTION PRIVILEGE AND USE TAX HOLIDAYS.  
23 RETAILERS MUST MAINTAIN ACCURATE, VERIFIABLE AND COMPLETE RECORDS OF ALL  
24 PURCHASES AND SALES OF TANGIBLE PERSONAL PROPERTY IN ORDER TO VERIFY  
25 EXEMPTIONS FROM TAXES IMPOSED BY THIS CHAPTER. A RETAILER MAY USE ANY METHOD  
26 OF RECORDING THAT PROPERLY REFLECTS ALL PURCHASES AND SALES OF ITEMS THAT  
27 QUALIFY FOR DEDUCTIONS AND EXEMPTIONS FROM THE COMPUTATION OF TAXES IMPOSED  
28 BY THIS CHAPTER, AS WELL AS PURCHASES AND SALES OF ITEMS SUBJECT TO TAXES  
29 IMPOSED BY THIS CHAPTER, IF THE RECORDS ARE MAINTAINED ACCORDING TO RULES  
30 ADOPTED BY THE DEPARTMENT.

31 **42-5032.02. Distribution of transaction privilege and use tax**  
32 **holiday revenue to program cities and towns**

33 A. ON OR BEFORE DECEMBER 31 OF EACH YEAR IN WHICH A TRANSACTION  
34 PRIVILEGE AND USE TAX HOLIDAY OCCURS, THE STATE TREASURER SHALL PAY FROM THE  
35 AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029,  
36 SUBSECTION D, THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE  
37 CITIES AND TOWNS THAT HAVE ENTERED INTO AN AGREEMENT PURSUANT TO SECTION  
38 42-6001.

39 B. THE DEPARTMENT SHALL DETERMINE THE AMOUNTS PAYABLE UNDER THIS  
40 SECTION AND NOTIFY EACH CITY OR TOWN OF THE AMOUNT PAYABLE BY CERTIFIED  
41 MAIL. THE AMOUNT TO BE PAID IS THE AMOUNT OF MUNICIPAL PRIVILEGE AND USE  
42 TAXES THAT OTHERWISE WOULD HAVE BEEN COLLECTED, EXCEPT FOR THE TRANSACTION  
43 PRIVILEGE AND USE TAX HOLIDAY PURSUANT TO SECTION 42-6004, SUBSECTION A,  
44 PARAGRAPH 10 DURING THE CURRENT CALENDAR YEAR, BY EACH CITY AND TOWN THAT HAS  
45 ENTERED INTO AN AGREEMENT PURSUANT TO SECTION 42-6001. THE CITY OR TOWN MUST

1 SUPPLY ALL INFORMATION REQUESTED BY THE DEPARTMENT THAT IS NECESSARY TO  
2 ADMINISTER THIS SECTION.

3 C. IF WITHIN FOUR YEARS AFTER A TRANSACTION PRIVILEGE AND USE TAX  
4 HOLIDAY THE DEPARTMENT DETERMINES THE AMOUNT DETERMINED AND PAID UNDER  
5 SUBSECTION B OF THIS SECTION WITH RESPECT TO THAT PERIOD WAS INCORRECT:

6 1. DISTRIBUTIONS THAT ARE OTHERWISE PAYABLE TO THE CITY OR TOWN UNDER  
7 SECTION 42-5029, SUBSECTION C SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY  
8 EXCESS AMOUNT PAID TO THE CITY OR TOWN.

9 2. THE STATE TREASURER SHALL PAY AN ADDITIONAL AMOUNT TO THE CITY OR  
10 TOWN EQUAL TO ANY DEFICIENCY.

11 D. A CITY OR TOWN MAY PROTEST THE AMOUNT DETERMINED UNDER SUBSECTION B  
12 OR C OF THIS SECTION BY FILING A PETITION WITH THE DEPARTMENT STATING THE  
13 REASONS WHY A HEARING, CORRECTION OR REDETERMINATION SHOULD BE GRANTED AND  
14 THE AMOUNT THE CITY OR TOWN BELIEVES SHOULD BE PAID. IF THE CITY OR TOWN  
15 FAILS TO FILE A PETITION FOR HEARING, CORRECTION OR REDETERMINATION WITHIN  
16 FORTY-FIVE DAYS AFTER RECEIVING THE NOTICE UNDER SUBSECTION B OF THIS  
17 SECTION, THE AMOUNT SET FORTH IN THE NOTICE BECOMES FINAL. THE DEPARTMENT  
18 SHALL CONSIDER EACH PETITION FOR A HEARING, CORRECTION OR REDETERMINATION AND  
19 GRANT A HEARING, IF REQUESTED. AN ORDER OR DECISION OF THE DEPARTMENT AFTER  
20 CONSIDERING A PETITION FOR A HEARING, CORRECTION OR REDETERMINATION BECOMES  
21 FINAL THIRTY DAYS AFTER THE DEPARTMENT NOTIFIES THE PETITIONER, UNLESS THE  
22 PETITIONER APPEALS THE ORDER OR DECISION TO THE STATE BOARD OF TAX APPEALS.

23 42-5032.03. Distribution of transaction privilege and use tax  
24 holiday revenue to nonprogram cities and towns

25 A. ON OR BEFORE DECEMBER 31 OF EACH YEAR IN WHICH A TRANSACTION  
26 PRIVILEGE AND USE TAX HOLIDAY OCCURS, THE STATE TREASURER SHALL PAY FROM THE  
27 AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029,  
28 SUBSECTION D, THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE  
29 CITIES AND TOWNS THAT HAVE NOT ENTERED INTO AN AGREEMENT PURSUANT TO SECTION  
30 42-6001.

31 B. THE AMOUNT TO BE PAID IS THE AMOUNT OF MUNICIPAL PRIVILEGE AND USE  
32 TAXES THAT OTHERWISE WOULD HAVE BEEN COLLECTED, EXCEPT FOR THE TRANSACTION  
33 PRIVILEGE AND USE TAX HOLIDAY PURSUANT TO SECTION 42-6004, SUBSECTION A,  
34 PARAGRAPH 10 DURING THE CURRENT CALENDAR YEAR, BY EACH CITY AND TOWN THAT HAS  
35 NOT ENTERED INTO AN AGREEMENT PURSUANT TO SECTION 42-6001. THE CITY OR TOWN  
36 MUST SUPPLY ALL INFORMATION REQUESTED BY THE DEPARTMENT THAT IS NECESSARY TO  
37 ADMINISTER THIS SECTION.

38 C. TO RECEIVE A PAYMENT UNDER THIS SECTION, A CITY OR TOWN MUST SUBMIT  
39 A DETAILED CLAIM TO THE DEPARTMENT FOR THE AMOUNT OF MUNICIPAL TAX THAT  
40 OTHERWISE WOULD HAVE BEEN COLLECTED. A FAILURE TO SUBMIT A CLAIM BY  
41 5:00 P.M. ON THE THIRD WEDNESDAY IN NOVEMBER CONSTITUTES A WAIVER AND  
42 ABANDONMENT OF THE CLAIM WITH RESPECT TO THE PRECEDING TRANSACTION PRIVILEGE  
43 AND USE TAX HOLIDAY.

44 D. THE DEPARTMENT MAY ACCEPT OR DENY ALL OR PART OF A CLAIM. BEFORE  
45 ACCEPTING OR DENYING A CLAIM, THE DEPARTMENT MAY CONDUCT AN AUDIT OF THE

CLAIM. IF THE DEPARTMENT CONDUCTS AN AUDIT, THE DEPARTMENT MUST ATTEMPT TO CONCLUDE THE AUDIT WITHIN NINETY DAYS AND ISSUE A DETERMINATION BASED ON THE AUDIT ACCEPTING OR DENYING ALL OR PART THE CLAIM. IF THE DEPARTMENT DENIES ALL OR PART OF THE CLAIM, THE DEPARTMENT MUST NOTIFY THE CITY OR TOWN BY CERTIFIED MAIL, INCLUDING THE REASONS FOR DENIAL AND SETTING FORTH THE ACCEPTED AMOUNT OF THE CLAIM.

E. IF THE DEPARTMENT ACCEPTS ALL OR PART OF A CLAIM BEFORE AN AUDIT, THE DEPARTMENT MAY LATER AUDIT THE CITY OR TOWN WITHIN FOUR YEARS AFTER THE TRANSACTION PRIVILEGE AND USE TAX HOLIDAY. IF THE DEPARTMENT CONDUCTS AN AUDIT, THE DEPARTMENT MUST ISSUE AND MAIL A DETERMINATION OF THE AUDIT TO THE CITY OR TOWN BY CERTIFIED MAIL. THE DETERMINATION MAY FIND THAT THE CLAIM WAS APPROPRIATE, THAT AN ADDITIONAL AMOUNT IS OWED TO THE CITY OR TOWN OR THAT THE CITY'S OR TOWN'S CLAIM SHOULD BE REDUCED.

F. IF WITHIN FOUR YEARS AFTER A TRANSACTION PRIVILEGE AND USE TAX HOLIDAY THE DEPARTMENT DETERMINES THE AMOUNT DETERMINED AND PAID UNDER THIS SECTION WITH RESPECT TO THAT PERIOD WAS INCORRECT:

1. DISTRIBUTIONS THAT ARE OTHERWISE PAYABLE TO THE CITY OR TOWN UNDER SECTION 42-5029, SUBSECTION C SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY EXCESS AMOUNT PAID TO THE CITY OR TOWN.

2. THE STATE TREASURER SHALL PAY AN ADDITIONAL AMOUNT TO THE CITY OR TOWN EQUAL TO ANY DEFICIENCY.

G. A CITY OR TOWN MAY PROTEST A DENIAL OF A CLAIM UNDER SUBSECTION D OF THIS SECTION OR THE AMOUNT DETERMINED UNDER SUBSECTION E OR F OF THIS SECTION BY FILING A PETITION WITH THE DEPARTMENT STATING THE REASONS WHY A HEARING, CORRECTION OR REDETERMINATION SHOULD BE GRANTED AND THE AMOUNT THE CITY OR TOWN BELIEVES SHOULD BE PAID. IF THE CITY OR TOWN FAILS TO FILE A PETITION FOR HEARING, CORRECTION OR REDETERMINATION WITHIN FORTY-FIVE DAYS AFTER RECEIVING THE NOTICE OF DENIAL OR DETERMINATION OF AN AUDIT, THE DETERMINATION OR DENIAL BECOMES FINAL. THE DEPARTMENT SHALL CONSIDER EACH PETITION AND GRANT A HEARING, IF REQUESTED. AN ORDER OR DECISION OF THE DEPARTMENT AFTER CONSIDERING A PETITION FOR A HEARING, CORRECTION OR REDETERMINATION BECOMES FINAL THIRTY DAYS AFTER THE DEPARTMENT NOTIFIES THE PETITIONER, UNLESS THE PETITIONER APPEALS THE ORDER OR DECISION TO THE STATE BOARD OF TAX APPEALS.

H. IN THE CASE OF A PROTEST OR AN AUDIT AND THE ISSUANCE OF A DETERMINATION BY THE DEPARTMENT, THE STATE TREASURER SHALL NOT PAY THE CITY'S OR TOWN'S CLAIM UNTIL THIRTY DAYS AFTER THE MATTER IS FINALIZED PURSUANT TO THIS SECTION OR PURSUANT TO APPEAL UNDER CHAPTER 1, ARTICLE 6 OF THIS TITLE.

Sec. 6. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1           1. Professional or personal service occupations or businesses which  
2 involve sales or transfers of tangible personal property only as  
3 inconsequential elements.

4           2. Services rendered in addition to selling tangible personal property  
5 at retail.

6           3. Sales of warranty or service contracts. The storage, use or  
7 consumption of tangible personal property provided under the conditions of  
8 such contracts is subject to tax under section 42-5156.

9           4. Sales of tangible personal property by any nonprofit organization  
10 organized and operated exclusively for charitable purposes and recognized by  
11 the United States internal revenue service under section 501(c)(3) of the  
12 internal revenue code.

13           5. Sales to persons engaged in business classified under the  
14 restaurant classification of articles used by human beings for food, drink or  
15 condiment, whether simple, mixed or compounded.

16           6. Business activity which is properly included in any other business  
17 classification which is taxable under article 1 of this chapter.

18           7. The sale of stocks and bonds.

19           8. Drugs and medical oxygen, including delivery hose, mask or tent,  
20 regulator and tank, on the prescription of a member of the medical, dental or  
21 veterinarian profession who is licensed by law to administer such substances.

22           9. Prosthetic appliances as defined in section 23-501 prescribed or  
23 recommended by a health professional licensed pursuant to title 32, chapter  
24 7, 8, 11, 13, 14, 15, 16, 17 or 29.

25           10. Insulin, insulin syringes and glucose test strips.

26           11. Prescription eyeglasses or contact lenses.

27           12. Hearing aids as defined in section 36-1901.

28           13. Durable medical equipment which has a centers for medicare and  
29 medicaid services common procedure code, is designated reimbursable by  
30 medicare, is prescribed by a person who is licensed under title 32, chapter  
31 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
32 customarily used to serve a medical purpose, is generally not useful to a  
33 person in the absence of illness or injury and is appropriate for use in the  
34 home.

35           14. Sales to nonresidents of this state for use outside this state if  
36 the vendor ships or delivers the tangible personal property out of this  
37 state.

38           15. Food, as provided in and subject to the conditions of article 3 of  
39 this chapter and section 42-5074.

40           16. Items purchased with United States department of agriculture food  
41 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
42 958) or food instruments issued under section 17 of the child nutrition act  
43 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
44 section 1786).

1       17. Textbooks by any bookstore that are required by any state  
2 university or community college.

3       18. Food and drink to a person who is engaged in business which is  
4 classified under the restaurant classification and which provides such food  
5 and drink without monetary charge to its employees for their own consumption  
6 on the premises during the employees' hours of employment.

7       19. Articles of food, drink or condiment and accessory tangible  
8 personal property to a school district if such articles and accessory  
9 tangible personal property are to be prepared and served to persons for  
10 consumption on the premises of a public school within the district during  
11 school hours.

12       20. Lottery tickets or shares pursuant to title 5, chapter 5,  
13 article 1.

14       21. The sale of precious metal bullion and monetized bullion to the  
15 ultimate consumer, but the sale of coins or other forms of money for  
16 manufacture into jewelry or works of art is subject to the tax. For the  
17 purposes of this paragraph:

18       (a) "Monetized bullion" means coins and other forms of money which are  
19 manufactured from gold, silver or other metals and which have been or are  
20 used as a medium of exchange in this or another state, the United States or a  
21 foreign nation.

22       (b) "Precious metal bullion" means precious metal, including gold,  
23 silver, platinum, rhodium and palladium, which has been smelted or refined so  
24 that its value depends on its contents and not on its form.

25       22. Motor vehicle fuel and use fuel which are subject to a tax imposed  
26 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
27 valid single trip use fuel tax permit issued under section 28-5739, sales of  
28 aviation fuel which are subject to the tax imposed under section 28-8344 and  
29 sales of jet fuel which are subject to the tax imposed under article 8 of  
30 this chapter.

31       23. Tangible personal property sold to a person engaged in the business  
32 of leasing or renting such property under the personal property rental  
33 classification if such property is to be leased or rented by such person.

34       24. Tangible personal property sold in interstate or foreign commerce  
35 if prohibited from being so taxed by the Constitution of the United States or  
36 the constitution of this state.

37       25. Tangible personal property sold to:

38       (a) A qualifying hospital as defined in section 42-5001.

39       (b) A qualifying health care organization as defined in section  
40 42-5001 if the tangible personal property is used by the organization solely  
41 to provide health and medical related educational and charitable services.

42       (c) A qualifying health care organization as defined in section  
43 42-5001 if the organization is dedicated to providing educational,  
44 therapeutic, rehabilitative and family medical education training for blind,



1 visually impaired and multihandicapped children from the time of birth to age  
2 twenty-one.

3 (d) A qualifying community health center as defined in section  
4 42-5001.

5 (e) A nonprofit charitable organization that has qualified under  
6 section 501(c)(3) of the internal revenue code and that regularly serves  
7 meals to the needy and indigent on a continuing basis at no cost.

8 (f) For taxable periods beginning from and after June 30, 2001, a  
9 nonprofit charitable organization that has qualified under section 501(c)(3)  
10 of the internal revenue code and that provides residential apartment housing  
11 for low income persons over sixty-two years of age in a facility that  
12 qualifies for a federal housing subsidy, if the tangible personal property is  
13 used by the organization solely to provide residential apartment housing for  
14 low income persons over sixty-two years of age in a facility that qualifies  
15 for a federal housing subsidy.

16 26. Magazines or other periodicals or other publications by this state  
17 to encourage tourist travel.

18 27. Tangible personal property sold to a person that is subject to tax  
19 under this article by reason of being engaged in business classified under  
20 the prime contracting classification under section 42-5075, or to a  
21 subcontractor working under the control of a prime contractor that is subject  
22 to tax under article 1 of this chapter, if the property so sold is any of the  
23 following:

24 (a) Incorporated or fabricated by the person into any real property,  
25 structure, project, development or improvement as part of the business.

26 (b) Used in environmental response or remediation activities under  
27 section 42-5075, subsection B, paragraph 6.

28 (c) Incorporated or fabricated by the person into any lake facility  
29 development in a commercial enhancement reuse district under conditions  
30 prescribed for the deduction allowed by section 42-5075, subsection B,  
31 paragraph 8.

32 28. The sale of a motor vehicle to:

33 (a) A nonresident of this state if the purchaser's state of residence  
34 does not allow a corresponding use tax exemption to the tax imposed by  
35 article 1 of this chapter and if the nonresident has secured a special ninety  
36 day nonresident registration permit for the vehicle as prescribed by sections  
37 28-2154 and 28-2154.01.

38 (b) An enrolled member of an Indian tribe who resides on the Indian  
39 reservation established for that tribe.

40 29. Tangible personal property purchased in this state by a nonprofit  
41 charitable organization that has qualified under section 501(c)(3) of the  
42 United States internal revenue code and that engages in and uses such  
43 property exclusively in programs for mentally or physically handicapped  
44 persons if the programs are exclusively for training, job placement,  
45 rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of tangible personal property that is shipped or delivered directly to a destination outside the United States for use in that foreign country.

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

37. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

1        39. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
2 processing, fabricating, mining, refining, metallurgical operations, research  
3 and development and, beginning on January 1, 1999, printing, if using or  
4 consuming the chemicals, alone or as part of an integrated system of  
5 chemicals, involves direct contact with the materials from which the product  
6 is produced for the purpose of causing or permitting a chemical or physical  
7 change to occur in the materials as part of the production process. This  
8 paragraph does not include chemicals that are used or consumed in activities  
9 such as packaging, storage or transportation but does not affect any  
10 deduction for such chemicals that is otherwise provided by this section. For  
11 the purposes of this paragraph, "printing" means a commercial printing  
12 operation and includes job printing, engraving, embossing, copying and  
13 bookbinding.

14        40. Through December 31, 1994, personal property liquidation  
15 transactions, conducted by a personal property liquidator. From and after  
16 December 31, 1994, personal property liquidation transactions shall be  
17 taxable under this section provided that nothing in this subsection shall be  
18 construed to authorize the taxation of casual activities or transactions  
19 under this chapter. For the purposes of this paragraph:

20        (a) "Personal property liquidation transaction" means a sale of  
21 personal property made by a personal property liquidator acting solely on  
22 behalf of the owner of the personal property sold at the dwelling of the  
23 owner or upon the death of any owner, on behalf of the surviving spouse, if  
24 any, any devisee or heir or the personal representative of the estate of the  
25 deceased, if one has been appointed.

26        (b) "Personal property liquidator" means a person who is retained to  
27 conduct a sale in a personal property liquidation transaction.

28        41. Sales of food, drink and condiment for consumption within the  
29 premises of any prison, jail or other institution under the jurisdiction of  
30 the state department of corrections, the department of public safety, the  
31 department of juvenile corrections or a county sheriff.

32        42. A motor vehicle and any repair and replacement parts and tangible  
33 personal property becoming a part of such motor vehicle sold to a motor  
34 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
35 and who is engaged in the business of leasing or renting such property.

36        43. Livestock and poultry feed, salts, vitamins and other additives for  
37 livestock or poultry consumption that are sold to persons who are engaged in  
38 producing livestock, poultry, or livestock or poultry products or who are  
39 engaged in feeding livestock or poultry commercially. For the purposes of  
40 this paragraph, "poultry" includes ratites.

41        44. Sales of implants used as growth promotants and injectable  
42 medicines, not already exempt under paragraph 8 of this subsection, for  
43 livestock or poultry owned by or in possession of persons who are engaged in  
44 producing livestock, poultry, or livestock or poultry products or who are

engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

45. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

46. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

47. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

48. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

49. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

50. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

51. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

52. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

53. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

1        54. SALES OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY DURING A  
2 TRANSACTION PRIVILEGE AND USE TAX HOLIDAY, SUBJECT TO THE CONDITIONS,  
3 LIMITATIONS AND REQUIREMENTS PRESCRIBED BY SUBSECTION V OF THIS SECTION:

4        (a) AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT  
5 THE HUMAN BODY IF THE SALES PRICE OF THE ARTICLE IS LESS THAN ONE HUNDRED  
6 DOLLARS, EXCEPT THAT THIS SUBDIVISION DOES NOT APPLY TO:

7            (i) SPORT OR RECREATIONAL EQUIPMENT AND PROTECTIVE EQUIPMENT.

8            (ii) CLOTHING ACCESSORIES OR EQUIPMENT.

9            (iii) THE RENTAL OF CLOTHING.

10        (b) A COMPUTER, IF THE SALES PRICE OF THE COMPUTER IS LESS THAN ONE  
11 THOUSAND DOLLARS.

12        (c) SCHOOL SUPPLIES THAT ARE ITEMS NORMALLY USED BY STUDENTS IN A  
13 STANDARD CLASSROOM FOR EDUCATIONAL PURPOSES IF THE SALES PRICE OF EACH ITEM  
14 IS LESS THAN FIFTY DOLLARS.

15        B. In addition to the deductions from the tax base prescribed by  
16 subsection A of this section, the gross proceeds of sales or gross income  
17 derived from sales of the following categories of tangible personal property  
18 shall be deducted from the tax base:

19        1. Machinery, or equipment, used directly in manufacturing,  
20 processing, fabricating, job printing, refining or metallurgical operations.  
21 The terms "manufacturing", "processing", "fabricating", "job printing",  
22 "refining" and "metallurgical" as used in this paragraph refer to and include  
23 those operations commonly understood within their ordinary meaning.  
24 "Metallurgical operations" includes leaching, milling, precipitating,  
25 smelting and refining.

26        2. Mining machinery, or equipment, used directly in the process of  
27 extracting ores or minerals from the earth for commercial purposes, including  
28 equipment required to prepare the materials for extraction and handling,  
29 loading or transporting such extracted material to the surface. "Mining"  
30 includes underground, surface and open pit operations for extracting ores and  
31 minerals.

32        3. Tangible personal property sold to persons engaged in business  
33 classified under the telecommunications classification and consisting of  
34 central office switching equipment, switchboards, private branch exchange  
35 equipment, microwave radio equipment and carrier equipment including optical  
36 fiber, coaxial cable and other transmission media which are components of  
37 carrier systems.

38        4. Machinery, equipment or transmission lines used directly in  
39 producing or transmitting electrical power, but not including distribution.  
40 Transformers and control equipment used at transmission substation sites  
41 constitute equipment used in producing or transmitting electrical power.

42        5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
43 to be used as breeding or production stock, including sales of breedings or  
44 ownership shares in such animals used for breeding or production.

1           6. Pipes or valves four inches in diameter or larger used to transport  
2 oil, natural gas, artificial gas, water or coal slurry, including compressor  
3 units, regulators, machinery and equipment, fittings, seals and any other  
4 part that is used in operating the pipes or valves.

5           7. Aircraft, navigational and communication instruments and other  
6 accessories and related equipment sold to:

7           (a) A person holding a federal certificate of public convenience and  
8 necessity, a supplemental air carrier certificate under federal aviation  
9 regulations (14 Code of Federal Regulations part 121) or a foreign air  
10 carrier permit for air transportation for use as or in conjunction with or  
11 becoming a part of aircraft to be used to transport persons, property or  
12 United States mail in intrastate, interstate or foreign commerce.

13           (b) Any foreign government for use by such government outside of this  
14 state.

15           (c) Persons who are not residents of this state and who will not use  
16 such property in this state other than in removing such property from this  
17 state. This subdivision also applies to corporations that are not  
18 incorporated in this state, regardless of maintaining a place of business in  
19 this state, if the principal corporate office is located outside this state  
20 and the property will not be used in this state other than in removing the  
21 property from this state.

22           8. Machinery, tools, equipment and related supplies used or consumed  
23 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
24 or aircraft component parts by or on behalf of a certificated or licensed  
25 carrier of persons or property.

26           9. Railroad rolling stock, rails, ties and signal control equipment  
27 used directly to transport persons or property.

28           10. Machinery or equipment used directly to drill for oil or gas or  
29 used directly in the process of extracting oil or gas from the earth for  
30 commercial purposes.

31           11. Buses or other urban mass transit vehicles which are used directly  
32 to transport persons or property for hire or pursuant to a governmentally  
33 adopted and controlled urban mass transportation program and which are sold  
34 to bus companies holding a federal certificate of convenience and necessity  
35 or operated by any city, town or other governmental entity or by any person  
36 contracting with such governmental entity as part of a governmentally adopted  
37 and controlled program to provide urban mass transportation.

38           12. Groundwater measuring devices required under section 45-604.

39           13. New machinery and equipment consisting of tractors, tractor-drawn  
40 implements, self-powered implements, machinery and equipment necessary for  
41 extracting milk, and machinery and equipment necessary for cooling milk and  
42 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
43 this subsection and that are used for commercial production of agricultural,  
44 horticultural, viticultural and floricultural crops and products in this  
45 state. For the purposes of this paragraph:

1 (a) "New machinery and equipment" means machinery and equipment which  
2 have never been sold at retail except pursuant to leases or rentals which do  
3 not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that  
5 are electric-powered.

6 14. Machinery or equipment used in research and development. For the  
7 purposes of this paragraph, "research and development" means basic and  
8 applied research in the sciences and engineering, and designing, developing  
9 or testing prototypes, processes or new products, including research and  
10 development of computer software that is embedded in or an integral part of  
11 the prototype or new product or that is required for machinery or equipment  
12 otherwise exempt under this section to function effectively. Research and  
13 development do not include manufacturing quality control, routine consumer  
14 product testing, market research, sales promotion, sales service, research in  
15 social sciences or psychology, computer software research that is not  
16 included in the definition of research and development, or other  
17 nontechnological activities or technical services.

18 15. Machinery and equipment that are purchased by or on behalf of the  
19 owners of a soundstage complex and primarily used for motion picture,  
20 multimedia or interactive video production in the complex. This paragraph  
21 applies only if the initial construction of the soundstage complex begins  
22 after June 30, 1996 and before January 1, 2002 and the machinery and  
23 equipment are purchased before the expiration of five years after the start  
24 of initial construction. For the purposes of this paragraph:

25 (a) "Motion picture, multimedia or interactive video production"  
26 includes products for theatrical and television release, educational  
27 presentations, electronic retailing, documentaries, music videos, industrial  
28 films, CD-ROM, video game production, commercial advertising and television  
29 episode production and other genres that are introduced through developing  
30 technology.

31 (b) "Soundstage complex" means a facility of multiple stages including  
32 production offices, construction shops and related areas, prop and costume  
33 shops, storage areas, parking for production vehicles and areas that are  
34 leased to businesses that complement the production needs and orientation of  
35 the overall facility.

36 16. Tangible personal property that is used by either of the following  
37 to receive, store, convert, produce, generate, decode, encode, control or  
38 transmit telecommunications information:

39 (a) Any direct broadcast satellite television or data transmission  
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
41 100.

42 (b) Any satellite television or data transmission facility, if both of  
43 the following conditions are met:

44 (i) Over two-thirds of the transmissions, measured in megabytes,  
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data  
2 transmission services that operate pursuant to 47 Code of Federal Regulations  
3 parts 25 and 100.

4 (ii) Over two-thirds of the transmissions, measured in megabytes,  
5 transmitted by or on behalf of those direct broadcast television or data  
6 transmission services during the test period were transmitted by the facility  
7 to or on behalf of those services.

8 For the purposes of subdivision (b) of this paragraph, "test period" means  
9 the three hundred sixty-five day period beginning on the later of the date on  
10 which the tangible personal property is purchased or the date on which the  
11 direct broadcast satellite television or data transmission service first  
12 transmits information to its customers.

13 17. Clean rooms that are used for manufacturing, processing,  
14 fabrication or research and development, as defined in paragraph 14 of this  
15 subsection, of semiconductor products. For the purposes of this paragraph,  
16 "clean room" means all property that comprises or creates an environment  
17 where humidity, temperature, particulate matter and contamination are  
18 precisely controlled within specified parameters, without regard to whether  
19 the property is actually contained within that environment or whether any of  
20 the property is affixed to or incorporated into real property. Clean room:

21 (a) Includes the integrated systems, fixtures, piping, movable  
22 partitions, lighting and all property that is necessary or adapted to reduce  
23 contamination or to control airflow, temperature, humidity, chemical purity  
24 or other environmental conditions or manufacturing tolerances, as well as the  
25 production machinery and equipment operating in conjunction with the clean  
26 room environment.

27 (b) Does not include the building or other permanent, nonremovable  
28 component of the building that houses the clean room environment.

29 18. Machinery and equipment used directly in the feeding of poultry,  
30 the environmental control of housing for poultry, the movement of eggs within  
31 a production and packaging facility or the sorting or cooling of eggs. This  
32 exemption does not apply to vehicles used for transporting eggs.

33 19. Machinery or equipment, including related structural components,  
34 that is employed in connection with manufacturing, processing, fabricating,  
35 job printing, refining, mining, natural gas pipelines, metallurgical  
36 operations, telecommunications, producing or transmitting electricity or  
37 research and development and that is used directly to meet or exceed rules or  
38 regulations adopted by the federal energy regulatory commission, the United  
39 States environmental protection agency, the United States nuclear regulatory  
40 commission, the Arizona department of environmental quality or a political  
41 subdivision of this state to prevent, monitor, control or reduce land, water  
42 or air pollution.

43 20. Machinery and equipment that are sold to a person engaged in the  
44 commercial production of livestock, livestock products or agricultural,  
45 horticultural, viticultural or floricultural crops or products in this state



1 and that are used directly and primarily to prevent, monitor, control or  
2 reduce air, water or land pollution.

3 21. Machinery or equipment that enables a television station to  
4 originate and broadcast or to receive and broadcast digital television  
5 signals and that was purchased to facilitate compliance with the  
6 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
7 Code section 336) and the federal communications commission order issued  
8 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
9 not exempt any of the following:

10 (a) Repair or replacement parts purchased for the machinery or  
11 equipment described in this paragraph.

12 (b) Machinery or equipment purchased to replace machinery or equipment  
13 for which an exemption was previously claimed and taken under this paragraph.

14 (c) Any machinery or equipment purchased after the television station  
15 has ceased analog broadcasting, or purchased after November 1, 2009,  
16 whichever occurs first.

17 22. Qualifying equipment that is purchased from and after June 30, 2004  
18 through June 30, 2014 by a qualified business under section 41-1516 for  
19 harvesting or the initial processing of qualifying forest products removed  
20 from qualifying projects as defined in section 41-1516. To qualify for this  
21 deduction, the qualified business at the time of purchase must present its  
22 certification approved by the department.

23 23. Machinery, equipment and other tangible personal property used  
24 directly in motion picture production by a motion picture production  
25 company. To qualify for this deduction, at the time of purchase, the motion  
26 picture production company must present to the retailer its certificate that  
27 is issued pursuant to section 42-5009, subsection H and that establishes its  
28 qualification for the deduction.

29 C. The deductions provided by subsection B of this section do not  
30 include sales of:

31 1. Expendable materials. For the purposes of this paragraph,  
32 expendable materials do not include any of the categories of tangible  
33 personal property specified in subsection B of this section regardless of the  
34 cost or useful life of that property.

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

37 4. Tangible personal property used in selling or distributing  
38 activities, other than the telecommunications transmissions described in  
39 subsection B, paragraph 16 of this section.

40 5. Motor vehicles required to be licensed by this state, except buses  
41 or other urban mass transit vehicles specifically exempted pursuant to  
42 subsection B, paragraph 11 of this section, without regard to the use of such  
43 motor vehicles.

44 6. Shops, buildings, docks, depots and all other materials of whatever  
45 kind or character not specifically included as exempt.

1           7. Motors and pumps used in drip irrigation systems.

2           D. In addition to the deductions from the tax base prescribed by  
3 subsection A of this section, there shall be deducted from the tax base the  
4 gross proceeds of sales or gross income derived from sales of machinery,  
5 equipment, materials and other tangible personal property used directly and  
6 predominantly to construct a qualified environmental technology  
7 manufacturing, producing or processing facility as described in section  
8 41-1514.02. This subsection applies for ten full consecutive calendar or  
9 fiscal years after the start of initial construction.

10          E. In computing the tax base, gross proceeds of sales or gross income  
11 from retail sales of heavy trucks and trailers does not include any amount  
12 attributable to federal excise taxes imposed by 26 United States Code section  
13 4051.

14          F. In computing the tax base, gross proceeds of sales or gross income  
15 from the sale of use fuel, as defined in section 28-5601, does not include  
16 any amount attributable to federal excise taxes imposed by 26 United States  
17 Code section 4091.

18          G. If a person is engaged in an occupation or business to which  
19 subsection A of this section applies, the person's books shall be kept so as  
20 to show separately the gross proceeds of sales of tangible personal property  
21 and the gross income from sales of services, and if not so kept the tax shall  
22 be imposed on the total of the person's gross proceeds of sales of tangible  
23 personal property and gross income from services.

24          H. If a person is engaged in the business of selling tangible personal  
25 property at both wholesale and retail, the tax under this section applies  
26 only to the gross proceeds of the sales made other than at wholesale if the  
27 person's books are kept so as to show separately the gross proceeds of sales  
28 of each class, and if the books are not so kept, the tax under this section  
29 applies to the gross proceeds of every sale so made.

30          I. A person who engages in manufacturing, baling, crating, boxing,  
31 barreling, canning, bottling, sacking, preserving, processing or otherwise  
32 preparing for sale or commercial use any livestock, agricultural or  
33 horticultural product or any other product, article, substance or commodity  
34 and who sells the product of such business at retail in this state is deemed,  
35 as to such sales, to be engaged in business classified under the retail  
36 classification. This subsection does not apply to businesses classified  
37 under the:

- 38           1. Transporting classification.
- 39           2. Utilities classification.
- 40           3. Telecommunications classification.
- 41           4. Pipeline classification.
- 42           5. Private car line classification.
- 43           6. Publication classification.
- 44           7. Job printing classification.
- 45           8. Prime contracting classification.

1           9. Owner builder sales classification.

2           10. Restaurant classification.

3           J. The gross proceeds of sales or gross income derived from the  
4 following shall be deducted from the tax base for the retail classification:

5           1. Sales made directly to the United States government or its  
6 departments or agencies by a manufacturer, modifier, assembler or repairer.

7           2. Sales made directly to a manufacturer, modifier, assembler or  
8 repairer if such sales are of any ingredient or component part of products  
9 sold directly to the United States government or its departments or agencies  
10 by the manufacturer, modifier, assembler or repairer.

11           3. Overhead materials or other tangible personal property that is used  
12 in performing a contract between the United States government and a  
13 manufacturer, modifier, assembler or repairer, including property used in  
14 performing a subcontract with a government contractor who is a manufacturer,  
15 modifier, assembler or repairer, to which title passes to the government  
16 under the terms of the contract or subcontract.

17           4. Sales of overhead materials or other tangible personal property to  
18 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
19 sales or gross income derived from the property by the manufacturer,  
20 modifier, assembler or repairer will be exempt under paragraph 3 of this  
21 subsection.

22           K. There shall be deducted from the tax base fifty per cent of the  
23 gross proceeds or gross income from any sale of tangible personal property  
24 made directly to the United States government or its departments or agencies,  
25 which is not deducted under subsection J of this section.

26           L. The department shall require every person claiming a deduction  
27 provided by subsection J or K of this section to file on forms prescribed by  
28 the department at such times as the department directs a sworn statement  
29 disclosing the name of the purchaser and the exact amount of sales on which  
30 the exclusion or deduction is claimed.

31           M. In computing the tax base, gross proceeds of sales or gross income  
32 does not include:

33           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
34 if the buyer assigns the buyer's right in the rebate to the retailer.

35           2. The waste tire disposal fee imposed pursuant to section 44-1302.

36           N. There shall be deducted from the tax base the amount received from  
37 sales of solar energy devices, but the deduction shall not exceed five  
38 thousand dollars for each solar energy device. Before deducting any amount  
39 under this subsection, the retailer shall register with the department as a  
40 solar energy retailer. By registering, the retailer acknowledges that it  
41 will make its books and records relating to sales of solar energy devices  
42 available to the department for examination.

43           O. In computing the tax base in the case of the sale or transfer of  
44 wireless telecommunications equipment as an inducement to a customer to enter  
45 into or continue a contract for telecommunications services that are taxable

1 under section 42-5064, gross proceeds of sales or gross income does not  
2 include any sales commissions or other compensation received by the retailer  
3 as a result of the customer entering into or continuing a contract for the  
4 telecommunications services.

5 P. For the purposes of this section, a sale of wireless  
6 telecommunications equipment to a person who holds the equipment for sale or  
7 transfer to a customer as an inducement to enter into or continue a contract  
8 for telecommunications services that are taxable under section 42-5064 is  
9 considered to be a sale for resale in the regular course of business.

10 Q. Retail sales of prepaid calling cards or prepaid authorization  
11 numbers for telecommunications services, including sales of reauthorization  
12 of a prepaid card or authorization number, are subject to tax under this  
13 section.

14 R. For the purposes of this section, the diversion of gas from a  
15 pipeline by a person engaged in the business of operating a natural or  
16 artificial gas pipeline, for the sole purpose of fueling compressor equipment  
17 to pressurize the pipeline, is not a sale of the gas to the operator of the  
18 pipeline.

19 S. If a seller is entitled to a deduction pursuant to subsection B,  
20 paragraph 16, subdivision (b) of this section, the department may require the  
21 purchaser to establish that the requirements of subsection B, paragraph 16,  
22 subdivision (b) of this section have been satisfied. If the purchaser cannot  
23 establish that the requirements of subsection B, paragraph 16, subdivision  
24 (b) of this section have been satisfied, the purchaser is liable in an amount  
25 equal to any tax, penalty and interest which the seller would have been  
26 required to pay under article 1 of this chapter if the seller had not made a  
27 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this  
28 section. Payment of the amount under this subsection exempts the purchaser  
29 from liability for any tax imposed under article 4 of this chapter and  
30 related to the tangible personal property purchased. The amount shall be  
31 treated as transaction privilege tax to the purchaser and as tax revenues  
32 collected from the seller to designate the distribution base pursuant to  
33 section 42-5029.

34 T. For the purposes of section 42-5032.01, the department shall  
35 separately account for revenues collected under the retail classification  
36 from businesses selling tangible personal property at retail:

37 1. On the premises of a multipurpose facility that is owned, leased or  
38 operated by the tourism and sports authority pursuant to title 5, chapter 8.

39 2. At professional football contests that are held in a stadium  
40 located on the campus of an institution under the jurisdiction of the Arizona  
41 board of regents.

42 U. In computing the tax base for the sale of a motor vehicle to a  
43 nonresident of this state, if the purchaser's state of residence allows a  
44 corresponding use tax exemption to the tax imposed by article 1 of this  
45 chapter and the rate of the tax in the purchaser's state of residence is

lower than the rate prescribed in article 1 of this chapter, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. FOR THE PURPOSES OF ADMINISTERING THE TRANSACTION PRIVILEGE AND USE TAX HOLIDAY UNDER SUBSECTION A, PARAGRAPH 54 OF THIS SECTION:

1. THE GROSS PROCEEDS OR GROSS INCOME FROM RENTAL OF CLOTHING OR FOOTWEAR, COMPUTERS AND SCHOOL SUPPLIES DO NOT QUALIFY FOR THE DEDUCTION. SUBSECTION A, PARAGRAPH 54 OF THIS SECTION DOES NOT APPLY TO RENTAL OF TANGIBLE PERSONAL PROPERTY.

2. THE DEDUCTION UNDER SUBSECTION A, PARAGRAPH 54 OF THIS SECTION DOES NOT APPLY TO TRANSACTIONS AT A THEME PARK, ENTERTAINMENT COMPLEX, SPORTS ARENA, STADIUM, GOLF COURSE, HEALTH CLUB, ZOO, MOTION PICTURE THEATER OR OTHER SPECTATOR ENTERTAINMENT VENUE, TRANSIENT LODGING ESTABLISHMENT, RESTAURANT OR AIRPORT.

3. THE TIME ZONE OF THE RETAILER'S LOCATION DETERMINES:

(a) THE AUTHORIZED TIME PERIOD FOR A TRANSACTION PRIVILEGE AND USE TAX HOLIDAY.

(b) THE AUTHORIZED TIME PERIOD IF THE RETAILER AND PURCHASER ARE LOCATED IN DIFFERENT TIME ZONES.

4. "CLOTHING" MEANS ALL HUMAN WEARING APPAREL SUITABLE FOR GENERAL USE. CLOTHING DOES NOT INCLUDE BELT BUCKLES SOLD SEPARATELY, COSTUME MASKS SOLD SEPARATELY, PATCHES AND EMBLEMS SOLD SEPARATELY, SEWING EQUIPMENT AND SUPPLIES, INCLUDING KNITTING NEEDLES, PATTERNS, PINS, SCISSORS, SEWING MACHINES, SEWING NEEDLES, TAPE MEASURES AND THIMBLES, AND SEWING MATERIALS THAT BECOME PART OF CLOTHING, INCLUDING BUTTONS, FABRIC, LACE, THREAD, YARN AND ZIPPERS.

5. "CLOTHING ACCESSORIES OR EQUIPMENT" MEANS INCIDENTAL ITEMS WORN ON THE PERSON OR IN CONJUNCTION WITH CLOTHING, WITHOUT REGARD TO WHETHER THE ITEM IS WORN ON THE BODY IN A MANNER THAT IS CHARACTERISTIC OF CLOTHING. CLOTHING ACCESSORIES OR EQUIPMENT INCLUDES BRIEFCASES, PURSES, LUGGAGE, COSMETICS, HAIR NOTIONS, INCLUDING BARRETTES, HAIR BOWS AND HAIR NETS, HANDBAGS, HANDKERCHIEFS, JEWELRY, SUNGLASSES, UMBRELLAS, WALLETS, WATCHES, WIGS AND HAIRPIECES.

6. "COMPUTER" MEANS A LAPTOP, DESKTOP, NOTEBOOK OR TOWER COMPUTER SYSTEM THAT CONSISTS OF A CENTRAL PROCESSING UNIT, RANDOM ACCESS MEMORY, A STORAGE DRIVE, A DISPLAY MONITOR AND A KEYBOARD AND DEVICES DESIGNED FOR USE IN CONJUNCTION WITH A PERSONAL COMPUTER, SUCH AS A DISK DRIVE, MEMORY MODULE, COMPACT DISK DRIVE, DAUGHTERBOARD, DIGITALIZER, MICROPHONE, MODEM, MOTHERBOARD, MOUSE, MULTIMEDIA SPEAKER, PRINTER, SCANNER, SINGLE-USER HARDWARE, SINGLE-USER OPERATING SYSTEM, SOUND CARD OR VIDEO CARD. COMPUTER DOES NOT MEAN MAINFRAME COMPUTERS, NETWORK HARDWARE, OPERATING SYSTEMS AND

1 SOFTWARE, MINICOMPUTERS, HAND-HELD COMPUTERS, PERSONAL DIGITAL ASSISTANTS  
2 WITHOUT INTERNET ACCESS, HARDWARE WORD PROCESSORS, GRAPHICAL CALCULATORS,  
3 VIDEO GAME CONSOLES, GAME CONTROLLERS, TELEPHONES, DIGITAL CAMERAS, PAGERS,  
4 COMPACT DISCS ENCODED WITH MUSIC OR MOTION PICTURES, DIGITAL VERSATILE DISCS  
5 ENCODED WITH MUSIC OR MOTION PICTURES AND SURGE PROTECTION OR UNINTERRUPTED  
6 POWER SUPPLY DEVICES.

7 7. "FOOTWEAR" MEANS SHOES, BOOTS, SLIPPERS, SANDALS, FLIP FLOPS AND  
8 TENNIS SHOES THAT ARE MEANT TO BE WORN BY HUMANS ON THEIR FEET.

9 8. "PROTECTIVE EQUIPMENT" MEANS ITEMS FOR HUMAN WEAR AND DESIGNED AS  
10 PROTECTION FOR THE WEARER AGAINST INJURY OR DISEASE OR AS PROTECTION AGAINST  
11 DAMAGE OR INJURY OF OTHER PERSONS OR PROPERTY BUT NOT SUITABLE FOR GENERAL  
12 USE. PROTECTIVE EQUIPMENT INCLUDES BREATHING MASKS, CLEAN ROOM APPAREL AND  
13 EQUIPMENT, EAR AND HEARING PROTECTORS, FACE SHIELDS, HARD HATS, HELMETS,  
14 PAINT OR DUST RESPIRATORS, PROTECTIVE GLOVES, SAFETY GLASSES, GOGGLES, SAFETY  
15 BELTS, TOOL BELTS AND WELDER'S GLOVES AND MASKS.

16 9. "SCHOOL SUPPLIES" MEANS IMPLEMENTS AND MATERIALS USED BY TYPICAL  
17 STUDENTS OF A GENERAL EDUCATION CURRICULUM. SCHOOL SUPPLIES:

18 (a) INCLUDE NOTEBOOKS, PAPER, WRITING INSTRUMENTS, CRAYONS, ART  
19 SUPPLIES, PAPER CLIPS, STAPLES, STAPLERS, SCISSORS, RULERS, BOOK BAGS,  
20 BACKPACKS, HANDHELD CALCULATORS, MAPS AND GLOBES VALUED AT LESS THAN  
21 TWENTY-FIVE DOLLARS PER UNIT.

22 (b) DO NOT INCLUDE TOOLS, SUCH AS HAMMERS, SAWS, SCREWDRIVERS,  
23 WRENCHES, POWER TOOLS, DRILLS, PNEUMATIC TOOLS AND PLUMBING TOOLS.

24 10. "SPORT OR RECREATIONAL EQUIPMENT" MEANS ITEMS DESIGNED FOR HUMAN  
25 USE AND WORN IN CONJUNCTION WITH AN ATHLETIC OR RECREATIONAL ACTIVITY THAT  
26 ARE NOT SUITABLE FOR GENERAL USE. SPORT OR RECREATIONAL EQUIPMENT INCLUDES  
27 BALLET AND TAP SHOES, CLEATED OR SPIKED ATHLETIC SHOES, GLOVES, INCLUDING  
28 BASEBALL, BOWLING, BOXING, HOCKEY AND GOLF GLOVES, GOGGLES, HAND AND ELBOW  
29 GUARDS, LIFE PRESERVERS AND VESTS, MOUTH GUARDS, ROLLER AND ICE SKATES, SHIN  
30 GUARDS, SHOULDER PADS, SKI BOOTS, WADERS, WETSUITS AND FINS.

31 ~~V-~~ W. For the purposes of this section:

32 1. "Aircraft" includes:

33 (a) An airplane flight simulator that is approved by the federal  
34 aviation administration for use as a phase II or higher flight simulator  
35 under appendix H, 14 Code of Federal Regulations part 121.

36 (b) Tangible personal property that is permanently affixed or attached  
37 as a component part of an aircraft that is owned or operated by a  
38 certificated or licensed carrier of persons or property.

39 2. "Other accessories and related equipment" includes aircraft  
40 accessories and equipment such as ground service equipment that physically  
41 contact aircraft at some point during the overall carrier operation.

42 3. "Selling at retail" means a sale for any purpose other than for  
43 resale in the regular course of business in the form of tangible personal  
44 property, but transfer of possession, lease and rental as used in the

1 definition of sale mean only such transactions as are found on investigation  
2 to be in lieu of sales as defined without the words lease or rental.

3 ~~W.~~ X. For the purposes of subsection J of this section:

4 1. "Assembler" means a person who unites or combines products, wares  
5 or articles of manufacture so as to produce a change in form or substance  
6 without changing or altering the component parts.

7 2. "Manufacturer" means a person who is principally engaged in the  
8 fabrication, production or manufacture of products, wares or articles for use  
9 from raw or prepared materials, imparting to those materials new forms,  
10 qualities, properties and combinations.

11 3. "Modifier" means a person who reworks, changes or adds to products,  
12 wares or articles of manufacture.

13 4. "Overhead materials" means tangible personal property, the gross  
14 proceeds of sales or gross income derived from which would otherwise be  
15 included in the retail classification, and which are used or consumed in the  
16 performance of a contract, the cost of which is charged to an overhead  
17 expense account and allocated to various contracts based upon generally  
18 accepted accounting principles and consistent with government contract  
19 accounting standards.

20 5. "Repairer" means a person who restores or renews products, wares or  
21 articles of manufacture.

22 6. "Subcontract" means an agreement between a contractor and any  
23 person who is not an employee of the contractor for furnishing of supplies or  
24 services that, in whole or in part, are necessary to the performance of one  
25 or more government contracts, or under which any portion of the contractor's  
26 obligation under one or more government contracts is performed, undertaken or  
27 assumed and that includes provisions causing title to overhead materials or  
28 other tangible personal property used in the performance of the subcontract  
29 to pass to the government or that includes provisions incorporating such  
30 title passing clauses in a government contract into the subcontract.

31 Sec. 7. Section 42-5151, Arizona Revised Statutes, is amended to read:

32 42-5151. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Ancillary services" means those services so designated in federal  
35 energy regulatory commission order 888 adopted in 1996 that include the  
36 services necessary to support the transmission of electricity from resources  
37 to loads while maintaining reliable operation of the transmission system  
38 according to good utility practice.

39 2. "Electric distribution service" means distributing electricity to  
40 retail electric customers through the use of electric distribution  
41 facilities.

42 3. "Electric generation service" means providing electricity for sale  
43 to retail electric customers but excluding electric distribution or  
44 transmission services.

1           4. "Electric transmission service" means transmitting electricity to  
2 retail electric customers or to electric distribution facilities so  
3 classified by the federal energy regulatory commission or, to the extent  
4 permitted by law, so classified by the Arizona corporation commission.

5           5. "Electric utility services" means the business of providing  
6 electric ancillary services, electric distribution services, electric  
7 generation services, electric transmission services and other services  
8 related to providing electricity.

9           6. "Electricity" means electric energy, electric capacity or electric  
10 capacity and energy.

11           7. "Electricity supplier" means a person, whether acting in a  
12 principal, agent or other capacity, that offers to sell electricity to a  
13 retail electric customer in this state.

14           8. "Natural gas" means natural or artificial gas, and includes methane  
15 and propane gas, the natural gas commodity, natural gas pipeline capacity or  
16 natural gas commodity and pipeline capacity.

17           9. "Natural gas utility services" means the business of selling  
18 natural gas or providing natural gas transportation services or other  
19 services related to providing natural gas.

20           10. "Notice" means written notice served personally or by certified  
21 mail and addressed to the last known address of the person to whom such  
22 notice is given.

23           11. "Other services" includes metering, meter reading services, billing  
24 and collecting services.

25           12. "Person" means an individual, firm, partnership, joint venture,  
26 association, corporation, estate, trust, receiver or syndicate, this state or  
27 a county, city, municipality, district or other political subdivision or  
28 agency thereof.

29           13. "Purchase" means any transfer, exchange or barter, conditional or  
30 otherwise, in any manner or by any means, of tangible personal property for a  
31 consideration, including transactions by which the possession of property is  
32 transferred but the seller retains the title as security for payment.

33           14. "Purchase price" or "sales price" means the total amount for which  
34 tangible personal property is sold, including any services that are a part of  
35 the sale, valued in money, whether paid in money or otherwise, and any amount  
36 for which credit is given to the purchaser by the seller without any  
37 deduction on account of the cost of the property sold, materials used, labor  
38 or services performed, interest charged, losses or other expenses, but does  
39 not include:

40           (a) Discounts allowed and taken.

41           (b) Charges for labor or services in installing, remodeling or  
42 repairing.

43           (c) Freight costs billed to and collected from a purchaser by a  
44 retailer for tangible personal property which, on the order of the retailer,  
45 is shipped directly from a manufacturer or wholesaler to the purchaser.



1 (d) Amounts attributable to federal excise taxes imposed by 26 United  
2 States Code section 4001, 4051 or 4091 on sales of heavy trucks and trailers  
3 and automobiles or on sales of use fuel, as defined in section 28-5601.

4 (e) The value of merchandise that is traded in on the purchase of new  
5 or pre-owned merchandise when the trade-in allowance is deducted from the  
6 sales price of the new or pre-owned merchandise before the completion of the  
7 sale.

8 15. "Retail electric customer" means a person who purchases electricity  
9 for that person's own use, including use in that person's trade or business,  
10 and not for resale, redistribution or retransmission.

11 16. "Retail natural gas customer" means a person who purchases natural  
12 gas for that person's own use, including use in that person's trade or  
13 business, and not for resale, redistribution or retransmission.

14 17. "Retailer" includes:

15 (a) Every person engaged in the business of making sales of tangible  
16 personal property for storage, use or other consumption or in the business of  
17 making sales at auction of tangible personal property owned by that person or  
18 others for storage, use or other consumption. If in the opinion of the  
19 department it is necessary for the efficient administration of this article  
20 to regard any salesmen, representatives, peddlers or canvassers as the agents  
21 of the dealers, distributors, supervisors or employers under whom they  
22 operate or from whom they obtain the tangible personal property sold by them,  
23 regardless of whether they are making sales on their own behalf or on behalf  
24 of such dealers, distributors, supervisors or employers, the department may  
25 so regard them and may regard the dealers, distributors, supervisors or  
26 employers as retailers for purposes of this article.

27 (b) A person who solicits orders for tangible personal property by  
28 mail if the solicitations are substantial and recurring or if the retailer  
29 benefits from any banking, financing, debt collection, telecommunication,  
30 television shopping system, cable, optic, microwave or other communication  
31 system or marketing activities occurring in this state or benefits from the  
32 location in this state of authorized installation, servicing or repair  
33 facilities.

34 18. "Storage" means keeping or retaining tangible personal property  
35 purchased from a retailer for any purpose except sale in the regular course  
36 of business or subsequent use solely outside this state.

37 19. "Taxpayer" means any retailer or person storing, using or consuming  
38 tangible personal property the storage, use or consumption of which is  
39 subject to the tax imposed by this article when such tax was not paid to a  
40 retailer.

41 20. "TRANSACTION PRIVILEGE AND USE TAX HOLIDAY" MEANS THE PERIOD  
42 BEGINNING AT 12:01 A.M. ON THE FIRST FRIDAY IN AUGUST AND ENDING AT MIDNIGHT  
43 ON THE FOLLOWING SUNDAY EACH YEAR.

~~20-~~ 21. "Use or consumption" means the exercise of any right or power over tangible personal property incidental to owning the property except holding for sale or selling the property in the regular course of business.

~~21-~~ 22. "Utility business" means a person that is engaged in the business of providing electric utility services to retail electric customers or natural gas utility services to retail natural gas customers.

Sec. 8. Section 42-5159, Arizona Revised Statutes, is amended to read:

~~42-5159.~~ Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property which directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel which is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are

engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements which are intended for sale with newspapers published in this state and which have already been subjected to an excise tax under the laws of another state in the United States which equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically

1 handicapped persons if the programs are exclusively for training, job  
2 placement, rehabilitation or testing.

3 (g) A person that is subject to tax under article 1 of this chapter by  
4 reason of being engaged in business classified under the prime contracting  
5 classification under section 42-5075, or a subcontractor working under the  
6 control of a prime contractor, if the tangible personal property is any of  
7 the following:

8 (i) Incorporated or fabricated by the contractor into a structure,  
9 project, development or improvement in fulfillment of a contract.

10 (ii) Used in environmental response or remediation activities under  
11 section 42-5075, subsection B, paragraph 6.

12 (iii) Incorporated or fabricated by the person into any lake facility  
13 development in a commercial enhancement reuse district under conditions  
14 prescribed for the deduction allowed by section 42-5075, subsection B,  
15 paragraph 8.

16 (h) A nonprofit charitable organization that has qualified under  
17 section 501(c)(3) of the internal revenue code if the property is purchased  
18 from the parent or an affiliate organization that is located outside this  
19 state.

20 (i) A qualifying community health center as defined in section  
21 42-5001.

22 (j) A nonprofit charitable organization that has qualified under  
23 section 501(c)(3) of the internal revenue code and that regularly serves  
24 meals to the needy and indigent on a continuing basis at no cost.

25 (k) A person engaged in business under the transient lodging  
26 classification if the property is a personal hygiene item or articles used by  
27 human beings for food, drink or condiment, except alcoholic beverages, which  
28 are furnished without additional charge to and intended to be consumed by the  
29 transient during the transient's occupancy.

30 (l) For taxable periods beginning from and after June 30, 2001, a  
31 nonprofit charitable organization that has qualified under section 501(c)(3)  
32 of the internal revenue code and that provides residential apartment housing  
33 for low income persons over sixty-two years of age in a facility that  
34 qualifies for a federal housing subsidy, if the tangible personal property is  
35 used by the organization solely to provide residential apartment housing for  
36 low income persons over sixty-two years of age in a facility that qualifies  
37 for a federal housing subsidy.

38 14. Commodities, as defined by title 7 United States Code section 2,  
39 that are consigned for resale in a warehouse in this state in or from which  
40 the commodity is deliverable on a contract for future delivery subject to the  
41 rules of a commodity market regulated by the United States commodity futures  
42 trading commission.

43 15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer which is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property if they are to be prepared and served to persons for consumption on the premises of a public school in a school district during school hours.

1       27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
2 article 1.

3       28. Textbooks, sold by a bookstore, that are required by any state  
4 university or community college.

5       29. Magazines, other periodicals or other publications produced by this  
6 state to encourage tourist travel.

7       30. Paper machine clothing, such as forming fabrics and dryer felts,  
8 purchased by a paper manufacturer and directly used or consumed in paper  
9 manufacturing.

10       31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
11 purchased by a qualified environmental technology manufacturer, producer or  
12 processor as defined in section 41-1514.02 and directly used or consumed in  
13 the generation or provision of on-site power or energy solely for  
14 environmental technology manufacturing, producing or processing or  
15 environmental protection. This paragraph shall apply for fifteen full  
16 consecutive calendar or fiscal years from the date the first paper  
17 manufacturing machine is placed in service. In the case of an environmental  
18 technology manufacturer, producer or processor who does not manufacture  
19 paper, the time period shall begin with the date the first manufacturing,  
20 processing or production equipment is placed in service.

21       32. Motor vehicles that are removed from inventory by a motor vehicle  
22 dealer as defined in section 28-4301 and that are provided to:

23       (a) Charitable or educational institutions that are exempt from  
24 taxation under section 501(c)(3) of the internal revenue code.

25       (b) Public educational institutions.

26       (c) State universities or affiliated organizations of a state  
27 university if no part of the organization's net earnings inures to the  
28 benefit of any private shareholder or individual.

29       33. Natural gas or liquefied petroleum gas used to propel a motor  
30 vehicle.

31       34. Machinery, equipment, technology or related supplies that are only  
32 useful to assist a person who is physically disabled as defined in section  
33 46-191, has a developmental disability as defined in section 36-551 or has a  
34 head injury as defined in section 41-3201 to be more independent and  
35 functional.

36       35. Liquid, solid or gaseous chemicals used in manufacturing,  
37 processing, fabricating, mining, refining, metallurgical operations, research  
38 and development and, beginning on January 1, 1999, printing, if using or  
39 consuming the chemicals, alone or as part of an integrated system of  
40 chemicals, involves direct contact with the materials from which the product  
41 is produced for the purpose of causing or permitting a chemical or physical  
42 change to occur in the materials as part of the production process. This  
43 paragraph does not include chemicals that are used or consumed in activities  
44 such as packaging, storage or transportation but does not affect any  
45 exemption for such chemicals that is otherwise provided by this section. For

the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property which is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. THE FOLLOWING TANGIBLE PERSONAL PROPERTY PURCHASED DURING A TRANSACTION PRIVILEGE AND USE TAX HOLIDAY, SUBJECT TO THE CONDITIONS, LIMITATIONS AND REQUIREMENTS PRESCRIBED BY SUBSECTION G OF THIS SECTION:

(a) AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT THE HUMAN BODY IF THE SALES PRICE OF THE ARTICLE IS LESS THAN ONE HUNDRED DOLLARS, EXCEPT THAT THIS SUBDIVISION DOES NOT APPLY TO:

(i) SPORT OR RECREATIONAL EQUIPMENT AND PROTECTIVE EQUIPMENT.

(ii) CLOTHING ACCESSORIES OR EQUIPMENT.

(iii) THE RENTAL OF CLOTHING.

(b) A COMPUTER, IF THE SALES PRICE OF THE COMPUTER IS LESS THAN ONE THOUSAND DOLLARS.



1 (c) SCHOOL SUPPLIES THAT ARE ITEMS NORMALLY USED BY STUDENTS IN A  
2 STANDARD CLASSROOM FOR EDUCATIONAL PURPOSES IF THE SALES PRICE OF EACH ITEM  
3 IS LESS THAN FIFTY DOLLARS.

4 B. In addition to the exemptions allowed by subsection A of this  
5 section, the following categories of tangible personal property are also  
6 exempt:

7 1. Machinery, or equipment, used directly in manufacturing,  
8 processing, fabricating, job printing, refining or metallurgical operations.  
9 The terms "manufacturing", "processing", "fabricating", "job printing",  
10 "refining" and "metallurgical" as used in this paragraph refer to and include  
11 those operations commonly understood within their ordinary meaning.  
12 "Metallurgical operations" includes leaching, milling, precipitating,  
13 smelting and refining.

14 2. Machinery, or equipment, used directly in the process of extracting  
15 ores or minerals from the earth for commercial purposes, including equipment  
16 required to prepare the materials for extraction and handling, loading or  
17 transporting such extracted material to the surface. "Mining" includes  
18 underground, surface and open pit operations for extracting ores and  
19 minerals.

20 3. Tangible personal property sold to persons engaged in business  
21 classified under the telecommunications classification under section 42-5064  
22 and consisting of central office switching equipment, switchboards, private  
23 branch exchange equipment, microwave radio equipment and carrier equipment  
24 including optical fiber, coaxial cable and other transmission media which are  
25 components of carrier systems.

26 4. Machinery, equipment or transmission lines used directly in  
27 producing or transmitting electrical power, but not including distribution.  
28 Transformers and control equipment used at transmission substation sites  
29 constitute equipment used in producing or transmitting electrical power.

30 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
31 to be used as breeding or production stock, including sales of breedings or  
32 ownership shares in such animals used for breeding or production.

33 6. Pipes or valves four inches in diameter or larger used to transport  
34 oil, natural gas, artificial gas, water or coal slurry, including compressor  
35 units, regulators, machinery and equipment, fittings, seals and any other  
36 part that is used in operating the pipes or valves.

37 7. Aircraft, navigational and communication instruments and other  
38 accessories and related equipment sold to:

39 (a) A person holding a federal certificate of public convenience and  
40 necessity, a supplemental air carrier certificate under federal aviation  
41 regulations (14 Code of Federal Regulations part 121) or a foreign air  
42 carrier permit for air transportation for use as or in conjunction with or  
43 becoming a part of aircraft to be used to transport persons, property or  
44 United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are

1 precisely controlled within specified parameters, without regard to whether  
2 the property is actually contained within that environment or whether any of  
3 the property is affixed to or incorporated into real property. Clean room:

4 (a) Includes the integrated systems, fixtures, piping, movable  
5 partitions, lighting and all property that is necessary or adapted to reduce  
6 contamination or to control airflow, temperature, humidity, chemical purity  
7 or other environmental conditions or manufacturing tolerances, as well as the  
8 production machinery and equipment operating in conjunction with the clean  
9 room environment.

10 (b) Does not include the building or other permanent, nonremovable  
11 component of the building that houses the clean room environment.

12 18. Machinery and equipment that are used directly in the feeding of  
13 poultry, the environmental control of housing for poultry, the movement of  
14 eggs within a production and packaging facility or the sorting or cooling of  
15 eggs. This exemption does not apply to vehicles used for transporting eggs.

16 19. Machinery or equipment, including related structural components,  
17 that is employed in connection with manufacturing, processing, fabricating,  
18 job printing, refining, mining, natural gas pipelines, metallurgical  
19 operations, telecommunications, producing or transmitting electricity or  
20 research and development and that is used directly to meet or exceed rules or  
21 regulations adopted by the federal energy regulatory commission, the United  
22 States environmental protection agency, the United States nuclear regulatory  
23 commission, the Arizona department of environmental quality or a political  
24 subdivision of this state to prevent, monitor, control or reduce land, water  
25 or air pollution.

26 20. Machinery and equipment that are used in the commercial production  
27 of livestock, livestock products or agricultural, horticultural, viticultural  
28 or floricultural crops or products in this state and that are used directly  
29 and primarily to prevent, monitor, control or reduce air, water or land  
30 pollution.

31 21. Machinery or equipment that enables a television station to  
32 originate and broadcast or to receive and broadcast digital television  
33 signals and that was purchased to facilitate compliance with the  
34 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
35 Code section 336) and the federal communications commission order issued  
36 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
37 not exempt any of the following:

38 (a) Repair or replacement parts purchased for the machinery or  
39 equipment described in this paragraph.

40 (b) Machinery or equipment purchased to replace machinery or equipment  
41 for which an exemption was previously claimed and taken under this paragraph.

42 (c) Any machinery or equipment purchased after the television station  
43 has ceased analog broadcasting, or purchased after November 1, 2009,  
44 whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the department of commerce at the time of purchase.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this ~~deduction~~ EXEMPTION, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the ~~deduction~~ EXEMPTION.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to:

1. The storage, use or consumption in Arizona of machinery, equipment, materials or other tangible personal property if used directly and

1 predominantly to construct a qualified environmental technology  
2 manufacturing, producing or processing facility, as described in section  
3 41-1514.02. This paragraph applies for ten full consecutive calendar or  
4 fiscal years after the start of initial construction.

5 2. The purchase of electricity by a qualified environmental technology  
6 manufacturer, producer or processor as defined in section 41-1514.02 that is  
7 used directly in environmental technology manufacturing, producing or  
8 processing. This paragraph shall apply for fifteen full consecutive calendar  
9 or fiscal years from the date the first paper manufacturing machine is placed  
10 in service. In the case of an environmental technology manufacturer,  
11 producer or processor who does not manufacture paper, the time period shall  
12 begin with the date the first manufacturing, processing or production  
13 equipment is placed in service.

14 F. The following shall be deducted in computing the purchase price of  
15 electricity by a retail electric customer from a utility business:

16 1. Fees charged by a municipally owned utility to persons constructing  
17 residential, commercial or industrial developments or connecting residential,  
18 commercial or industrial developments to a municipal utility system or  
19 systems if the fees are segregated and used only for capital expansion,  
20 system enlargement or debt service of the utility system or systems.

21 2. Reimbursement or contribution compensation to any person or persons  
22 owning a utility system for property and equipment installed to provide  
23 utility access to, on or across the land of an actual utility consumer if the  
24 property and equipment become the property of the utility. This deduction  
25 shall not exceed the value of such property and equipment.

26 G. FOR THE PURPOSES OF ADMINISTERING THE TRANSACTION PRIVILEGE AND USE  
27 TAX HOLIDAY UNDER SUBSECTION A, PARAGRAPH 49 OF THIS SECTION:

28 1. THE EXEMPTION UNDER SUBSECTION A, PARAGRAPH 49 OF THIS SECTION DOES  
29 NOT APPLY TO TANGIBLE PERSONAL PROPERTY PURCHASED AT A THEME PARK,  
30 ENTERTAINMENT COMPLEX, SPORTS ARENA, STADIUM, GOLF COURSE, HEALTH CLUB, ZOO,  
31 MOTION PICTURE THEATER OR OTHER SPECTATOR ENTERTAINMENT VENUE, TRANSIENT  
32 LODGING ESTABLISHMENT, RESTAURANT OR AIRPORT.

33 2. THE TIME ZONE OF THE RETAILER'S LOCATION DETERMINES:

34 (a) THE AUTHORIZED TIME PERIOD FOR A TRANSACTION PRIVILEGE AND USE TAX  
35 HOLIDAY.

36 (b) THE AUTHORIZED TIME PERIOD IF THE RETAILER AND PURCHASER ARE  
37 LOCATED IN DIFFERENT TIME ZONES.

38 3. "CLOTHING" MEANS ALL HUMAN WEARING APPAREL SUITABLE FOR GENERAL  
39 USE. CLOTHING DOES NOT INCLUDE BELT BUCKLES SOLD SEPARATELY, COSTUME MASKS  
40 SOLD SEPARATELY, PATCHES AND EMBLEMS SOLD SEPARATELY, SEWING EQUIPMENT AND  
41 SUPPLIES, INCLUDING KNITTING NEEDLES, PATTERNS, PINS, SCISSORS, SEWING  
42 MACHINES, SEWING NEEDLES, TAPE MEASURES AND THIMBLES, AND SEWING MATERIALS  
43 THAT BECOME PART OF CLOTHING, INCLUDING BUTTONS, FABRIC, LACE, THREAD, YARN  
44 AND ZIPPERS.

1           4. "CLOTHING ACCESSORIES OR EQUIPMENT" MEANS INCIDENTAL ITEMS WORN ON  
2 THE PERSON OR IN CONJUNCTION WITH CLOTHING, WITHOUT REGARD TO WHETHER THE  
3 ITEM IS WORN ON THE BODY IN A MANNER THAT IS CHARACTERISTIC OF  
4 CLOTHING. CLOTHING ACCESSORIES OR EQUIPMENT INCLUDES BRIEFCASES, PURSES,  
5 LUGGAGE, COSMETICS, HAIR NOTIONS, INCLUDING BARRETTES, HAIR BOWS AND HAIR  
6 NETS, HANDBAGS, HANDKERCHIEFS, JEWELRY, SUNGLASSES, UMBRELLAS, WALLETs,  
7 WATCHES, WIGs AND HAIRPIECES.

8           5. "COMPUTER" MEANS A LAPTOP, DESKTOP, NOTEBOOK OR TOWER COMPUTER  
9 SYSTEM THAT CONSISTS OF A CENTRAL PROCESSING UNIT, RANDOM ACCESS MEMORY, A  
10 STORAGE DRIVE, A DISPLAY MONITOR AND A KEYBOARD AND DEVICES DESIGNED FOR USE  
11 IN CONJUNCTION WITH A PERSONAL COMPUTER, SUCH AS A DISK DRIVE, MEMORY MODULE,  
12 COMPACT DISK DRIVE, DAUGHTERBOARD, DIGITALIZER, MICROPHONE, MODEM,  
13 MOTHERBOARD, MOUSE, MULTIMEDIA SPEAKER, PRINTER, SCANNER, SINGLE-USER  
14 HARDWARE, SINGLE-USER OPERATING SYSTEM, SOUND CARD OR VIDEO CARD. COMPUTER  
15 DOES NOT MEAN MAINFRAME COMPUTERS, NETWORK HARDWARE, OPERATING SYSTEMS AND  
16 SOFTWARE, MINICOMPUTERS, HAND-HELD COMPUTERS, PERSONAL DIGITAL ASSISTANTS  
17 WITHOUT INTERNET ACCESS, HARDWARE WORD PROCESSORS, GRAPHICAL CALCULATORS,  
18 VIDEO GAME CONSOLES, GAME CONTROLLERS, TELEPHONES, DIGITAL CAMERAS, PAGERS,  
19 COMPACT DISCS ENCODED WITH MUSIC OR MOTION PICTURES, DIGITAL VERSATILE DISCS  
20 ENCODED WITH MUSIC OR MOTION PICTURES AND SURGE PROTECTION OR UNINTERRUPTED  
21 POWER SUPPLY DEVICES.

22           6. "FOOTWEAR" MEANS SHOES, BOOTS, SLIPPERS, SANDALS, FLIP FLOPS AND  
23 TENNIS SHOES THAT ARE MEANT TO BE WORN BY HUMANS ON THEIR FEET.

24           7. "PROTECTIVE EQUIPMENT" MEANS ITEMS FOR HUMAN WEAR AND DESIGNED AS  
25 PROTECTION FOR THE WEARER AGAINST INJURY OR DISEASE OR AS PROTECTION AGAINST  
26 DAMAGE OR INJURY OF OTHER PERSONS OR PROPERTY BUT NOT SUITABLE FOR GENERAL  
27 USE. PROTECTIVE EQUIPMENT INCLUDES BREATHING MASKS, CLEAN ROOM APPAREL AND  
28 EQUIPMENT, EAR AND HEARING PROTECTORS, FACE SHIELDS, HARD HATS, HELMETS,  
29 PAINT OR DUST RESPIRATORS, PROTECTIVE GLOVES, SAFETY GLASSES, GOGGLES, SAFETY  
30 BELTS, TOOL BELTS AND WELDER'S GLOVES AND MASKS.

31           8. "SCHOOL SUPPLIES" MEANS IMPLEMENTS AND MATERIALS USED BY TYPICAL  
32 STUDENTS OF A GENERAL EDUCATION CURRICULUM. SCHOOL SUPPLIES:

33           (a) INCLUDE NOTEBOOKS, PAPER, WRITING INSTRUMENTS, CRAYONS, ART  
34 SUPPLIES, PAPER CLIPS, STAPLES, STAPLERS, SCISSORS, RULERS, BOOK BAGS,  
35 BACKPACKS, HANDHELD CALCULATORS, MAPS AND GLOBES VALUED AT LESS THAN  
36 TWENTY-FIVE DOLLARS PER UNIT.

37           (b) DO NOT INCLUDE TOOLS, SUCH AS HAMMERS, SAWS, SCREWDRIVERS,  
38 WRENCHES, POWER TOOLS, DRILLS, PNEUMATIC TOOLS AND PLUMBING TOOLS.

39           9. "SPORT OR RECREATIONAL EQUIPMENT" MEANS ITEMS DESIGNED FOR HUMAN  
40 USE AND WORN IN CONJUNCTION WITH AN ATHLETIC OR RECREATIONAL ACTIVITY THAT  
41 ARE NOT SUITABLE FOR GENERAL USE. SPORT OR RECREATIONAL EQUIPMENT INCLUDES  
42 BALLET AND TAP SHOES, CLEATED OR SPIKED ATHLETIC SHOES, GLOVES, INCLUDING  
43 BASEBALL, BOWLING, BOXING, HOCKEY AND GOLF GLOVES, GOGGLES, HAND AND ELBOW  
44 GUARDS, LIFE PRESERVERS AND VESTS, MOUTH GUARDS, ROLLER AND ICE SKATES, SHIN  
45 GUARDS, SHOULDER PADS, SKI BOOTS, WADERS, WETSUITS AND FINS.

1 ~~G.~~ H. For the purposes of subsection B of this section:

2 1. "Aircraft" includes:

3 (a) An airplane flight simulator that is approved by the federal  
4 aviation administration for use as a phase II or higher flight simulator  
5 under appendix H, 14 Code of Federal Regulations part 121.

6 (b) Tangible personal property that is permanently affixed or attached  
7 as a component part of an aircraft that is owned or operated by a  
8 certificated or licensed carrier of persons or property.

9 2. "Other accessories and related equipment" includes aircraft  
10 accessories and equipment such as ground service equipment that physically  
11 contact aircraft at some point during the overall carrier operation.

12 ~~H.~~ I. For the purposes of subsection D of this section, "ancillary  
13 services", "electric distribution service", "electric generation service",  
14 "electric transmission service" and "other services" have the same meanings  
15 prescribed in section 42-5063.

16 Sec. 9. Section 42-6004, Arizona Revised Statutes, is amended to read:

17 42-6004. Exemption from municipal tax

18 A. A city, town or special taxing district shall not levy a  
19 transaction privilege, sales, use or other similar tax on:

20 1. Exhibition events in this state sponsored, conducted or operated by  
21 a nonprofit organization that is exempt from taxation under section  
22 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
23 organization is associated with a major league baseball team or a national  
24 touring professional golfing association and no part of the organization's  
25 net earnings inures to the benefit of any private shareholder or individual.

26 2. Interstate telecommunications services, which include that portion  
27 of telecommunications services, such as subscriber line service, allocable by  
28 federal law to interstate telecommunications service.

29 3. Sales of warranty or service contracts.

30 4. Sales of motor vehicles to nonresidents of this state for use  
31 outside this state if the vendor ships or delivers the motor vehicle to a  
32 destination outside this state.

33 5. Interest on finance contracts.

34 6. Dealer documentation fees on the sales of motor vehicles.

35 7. The gross proceeds of sales or gross income received from a  
36 contract from constructing any lake facility development in a commercial  
37 enhancement reuse district established pursuant to section 9-499.08.

38 8. Sales of food or other items purchased with United States  
39 department of agriculture food stamp coupons issued under the food stamp act  
40 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
41 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
42 section 4302; 42 United States Code section 1786) but may impose such a tax  
43 on other sales of food. If a city, town or special taxing district exempts  
44 sales of food from its tax or imposes a different transaction privilege rate  
45 on the gross proceeds of sales or gross income from sales of food and nonfood



1 items, it shall use the definition of food prescribed by rule adopted by the  
2 department pursuant to section 42-5106.

3 9. Sales of internet access services to the person's subscribers and  
4 customers. For the purposes of this paragraph:

5 (a) "Internet" means the computer and telecommunications facilities  
6 that comprise the interconnected worldwide network of networks that employ  
7 the transmission control protocol or internet protocol, or any predecessor or  
8 successor protocol, to communicate information of all kinds by wire or radio.

9 (b) "Internet access" means a service that enables users to access  
10 content, information, electronic mail or other services over the internet.  
11 Internet access does not include telecommunication services provided by a  
12 common carrier.

13 10. THE FOLLOWING TANGIBLE PERSONAL PROPERTY SOLD DURING A TRANSACTION  
14 PRIVILEGE AND USE TAX HOLIDAY AS DEFINED IN SECTION 42-5001, SUBJECT TO THE  
15 SAME LIMITATIONS AND REQUIREMENTS PRESCRIBED BY SECTION 42-5061,  
16 SUBSECTION V:

17 (a) AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT  
18 THE HUMAN BODY IF THE SALES PRICE OF THE ARTICLE IS LESS THAN ONE HUNDRED  
19 DOLLARS, EXCEPT THAT THIS SUBDIVISION DOES NOT APPLY TO:

20 (i) SPORT OR RECREATIONAL EQUIPMENT AND PROTECTIVE EQUIPMENT.

21 (ii) CLOTHING ACCESSORIES OR EQUIPMENT.

22 (iii) THE RENTAL OF CLOTHING.

23 (b) A COMPUTER IF THE SALES PRICE OF THE COMPUTER IS LESS THAN ONE  
24 THOUSAND DOLLARS.

25 (c) SCHOOL SUPPLIES THAT ARE ITEMS NORMALLY USED BY STUDENTS IN A  
26 STANDARD CLASSROOM FOR EDUCATIONAL PURPOSES IF THE SALES PRICE OF EACH ITEM  
27 IS LESS THAN FIFTY DOLLARS.

28 B. A city, town or other taxing jurisdiction shall not levy a  
29 transaction privilege, sales, use, franchise or other similar tax or fee,  
30 however denominated, on natural gas or liquefied petroleum gas used to propel  
31 a motor vehicle.

32 C. A city, town or other taxing jurisdiction shall not levy a  
33 transaction privilege, sales, gross receipts, use, franchise or other similar  
34 tax or fee, however denominated, on gross proceeds of sales or gross income  
35 derived from any of the following:

36 1. A motor carrier's use on the public highways in this state if the  
37 motor carrier is subject to a fee prescribed in title 28, chapter 16,  
38 article 4.

39 2. Leasing, renting or licensing a motor vehicle subject to and upon  
40 which the fee has been paid under title 28, chapter 16, article 4.

41 3. The sale of a motor vehicle and any repair and replacement parts  
42 and tangible personal property becoming a part of such motor vehicle to a  
43 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
44 article 4 and who is engaged in the business of leasing, renting or licensing  
45 such property.

1           4. Incarcerating or detaining in a privately operated prison, jail or  
2 detention facility prisoners who are under the jurisdiction of the United  
3 States, this state or any other state or a political subdivision of this  
4 state or of any other state.

5           5. Transporting for hire persons, freight or property by light motor  
6 vehicles subject to a fee under title 28, chapter 15, article 4.

7           6. Except as provided in section 42-6104, a contract from constructing  
8 any lake facility development in a commercial enhancement reuse district  
9 established pursuant to section 9-499.08.

10          D. A city, town or other taxing jurisdiction shall not levy a  
11 transaction privilege, sales, use, franchise or other similar tax or fee,  
12 however denominated, in excess of one-tenth of one per cent of the value of  
13 the entire product mined, smelted, extracted, refined, produced or prepared  
14 for sale, profit or commercial use, on persons engaged in the business of  
15 mineral processing, except to the extent that the tax is computed on the  
16 gross proceeds or gross income from sales at retail.

17          E. In computing the tax base, any city, town or other taxing  
18 jurisdiction shall not include in the gross proceeds of sales or gross  
19 income:

20           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
21 if the buyer assigns the buyer's right in the rebate to the retailer.

22           2. The waste tire disposal fee imposed pursuant to section 44-1302.

23          Sec. 10. Rules; exemption

24          The department of revenue is exempt from the rule making requirements  
25 of title 41, chapter 6, Arizona Revised Statutes, for one year after the  
26 effective date of this act to adopt administrative rules regarding the  
27 implementation of this act.

28          Sec. 11. Emergency

29          This act is an emergency measure that is necessary to preserve the  
30 public peace, health or safety and is operative immediately as provided by  
31 law.